OXFORD ANALYTICA

SHAREHOLDER AND CREDITOR RIGHTS IN KEY EMERGING MARKETS 2006

A Study

Prepared For

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INTRODUCTION AND METHODOLOGY

This study surveys shareholder and creditor rights for 27 emerging market economies, using 15 principles as benchmarks. Surveyed countries are: Argentina, Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Israel, Jordan, Malaysia, Mexico, Morocco, Pakistan, Peru, Philippines, Poland, Russia, South Africa, South Korea, Sri Lanka, Taiwan, Thailand, Turkey, and Venezuela.

The principles and methodology are adapted from La Porta, Lopez-de-Silanes, Shleifer, and Vishny, 'Law and Finance', NBER Working Paper 5661, Cambridge, Mass: National Bureau of Economics, July 1996.

Judgments were made by analysing countries' legislation, using official or commercial translations of the law(s) where available. In the Latin American countries and Morocco, legislation is cited in the original Spanish or French, while in all other countries legislation appears in English from the original copy or translation. The updated country reports were sent out to the Securities and Exchange Commission (SEC) or other relevant authorities in all 27 countries, and to Oxford Analytica's in-country experts, in order to discuss the reports and any developments over the past year. In the majority of countries, the in-country expert and an Oxford Analyica representative were able to meet with representatives from the SEC or another relevant party. Feedback was duly incorporated as appropriate.

Assessments based on the principles are made with regard to the legal framework in place, but implementation of the laws has not been considered. Legislation is cited as in the original text, retaining spelling and phrasing.

Under 'shareholder rights', the following principles are considered:

- one share-one vote;
- proxy by mail allowed;
- shares not blocked before meeting;
- cumulative voting/proportional representation;
- oppressed minority (judicial venue/obligatory share repurchase);
- preemptive right to new issues;
- percentage of share capital to call an ESM; and
- mandatory dividend.

An index is then aggregated of all principles, except mandatory dividend, to give an overall score for a country's shareholder rights' record, with a "1" given when the country has investor protection in place for a certain principle, and a "0" when not. In addition, a 1 is given if 10% or fewer of share capital suffices to call an ESM. The shareholder rights index therefore ranges from 0 to 7. The results are compiled in the table below.

Under 'creditor rights', the following principles are considered:

- restrictions on going into reorganisation;
- no automatic stay on assets during reorganisation;
- secured creditors first paid;
- management replaced in reorganisation; and
- legal reserve.

An index is then aggregated of all principles to give an overall score for a country's creditor rights record, with a "1" given when the country has creditor rights protection in place for a certain principle, and a "0" when not. The creditor rights index therefore ranges from 0 to 4. The results are complied in the table below.

Two methodological assumptions were adopted: in the 'shares not blocked before meeting' principle, a 0 is given only when the law *requires* that shares be blocked, thus preventing shareholders from selling those shares for a number of days, not merely allows it. In the 'legal reserve' principle, in some countries more than one percent of share capital is identified as a legal reserve, or there is a range, or a part of profits, which must be allocated to the reserve annually until a certain percentage of share capital is reached. In all cases, the highest number is recorded in the summary table. (In the case of Taiwan, this has led to a 100% legal reserve rating, because the law requires that 10% of profits be allocated to a reserve fund each year, until the fund amounts to the total authorised capital).

SHAREHOLDER RIGHTS INDEX

Country	One share-one vote	Proxy by mail allowed	Shares not blocked before meeting	Cumulative voting / proportional representation	Oppressed minorities	Preemptive right to new issues	% of share capital to call an ESM	Shareholder rights index	Mandatory dividend
Argentina	0	0	0	1	1	1	5%	4	0
Brazil	1	0	1	1	1	1	5%	6	25 / 50%
Chile	1	0	1	1	1	1	10%	6	30%
China	1	0	1	0	1	1	10%	5	0
Colombia	1	0	1	0	1	1	20%	4	50%
Czech Rep.	0	0	0	0	1	1	3 / 5%	3	0
Egypt	0	0	1	0	1	0	10%	3	0
Hungary	0	0	1	0	1	1	5%	4	0
India	1	0	1	1	1	1	10%	6	0
Indonesia	1	0	1	0	1	1	10%	5	0
Israel	0	1	1	0	1	0	5%	4	0
Jordan	0	0	1	0	1	0	15 / 25%	2	0
Malaysia	1	0	1	0	1	1	10%	5	0
Mexico	1	0	1	1	1	1	10%	6	0
Morocco	1	0	1	0	1	1	NA	4	0
Pakistan	0	0	1	1	1	1	10%	5	0
Peru	1	0	1	1	1	1	20%	5	0
Philippines	1	1	1	1	1	1	Open	7	0
Poland	1	0	1	1	1	1	10%	6	NA
Russia	1	0	1	1	1	1	10%	6	0
South Africa	0	1	1	0	1	1	5%	5	0
South Korea	1	1	1	1	1	1	3%	7	0
Sri Lanka	0	0	1	0	1	0	10%	3	0
Taiwan	1	1	1	1	1	1	3%	7	0
Thailand	1	0	1	1	1	1	20 / 10%	5	0
Turkey	0	0	1	0	1	1	10%	4	0
Venezuela	0	0	0	0	1	0	20%	1	50%

In the above table a "1" means the shareholder right is in the law. 'Shareholder rights index' is the sum of the seven principles from 'one share-one vote' to '% of share capital to call an ESM', with the latter being given a 1 if the value is 10% or less.

CREDITOR RIGHTS INDEX

Country	Restrictions on going into reorganisation	No automatic stay on assets	Secured creditors first (paid)	Management replaced	Creditor rights index	Legal reserve
Argentina	1	0	1	0	2	20%
Brazil	1	1	0	0	2	20%
Chile	1	1	0	0	2	0
China	1	0	1	0	2	50%
Colombia	1	0	1	0	2	50%
Czech Rep.	0	0	0	0	0	20%
Egypt	0	1	0	NA	1	50%
Hungary	1	0	0	0	1	open
India	1	1	1	0	3	0
Indonesia	1	1	1	1	4	20%
Israel	1	1	1	0	3	0
Jordan	1	0	0	0	1	25%
Malaysia	1	1	1	0	3	0
Mexico	1	0	0	0	1	20%
Morocco	0	1	1	1	3	5%
Pakistan	1	1	1	0	3	0
Peru	1	0	0	1	2	20%
Philippines	1	1	1	1	4	0
Poland	0	0	0	0	0	33%
Russia	1	0	0	0	1	5%
South Africa	1	0	1	1	3	0
South Korea	1	1	1	1	4	50%
Sri Lanka	1	1	0	0	2	0
Taiwan	1	0	1	1	3	10%
Thailand	1	0	1	1	3	10%
Turkey	1	0	0	0	1	33%
Venezuela	0	0	0	0	0	10%

In the above table a "1" in a column means that creditor protection is in the law. 'Creditor rights index' is the sum of the four principles. NA = not applicable.

COUNTRY UPDATES

Argentina

The Company Law 19.550 (Ley Comercial de Sociedades - 19.550) and the Restructuring and Bankruptcy Law N° 24.522 (Ley de concursos y quiebras N° 24.522) regulate shareholder and creditor rights in Argentina.

Brazil

Shareholder rights in Brazil are prescribed in Law 6,404, of December 1976, as amended (the "Corporation Law"). The Corporation Law regulates the 'sociedade anônima', which is the corporate form most closely resembling a joint-stock company or corporation. The Law nº 6,404/1976 was last amended in 2001 [Law No. 10,303/2001].

The Brazilian government enacted Law No. 11,101 of 9 February 2005, introducing new rules on bankruptcy and debt recovery procedures, together with Supplementary Law 118/05 that includes corresponding changes to the Brazilian Tax Code. The New Bankruptcy Law gives priority to the recovery of companies rather than to bankruptcy, which may maintain job positions and safeguard the interests of creditors by preserving the company, its social-interest role and encouraging economic activity, provided that the continuation of the debtor's operations is financially viable.

Chile

The corporate legal framework of Chile is governed by the Company Law 18046 of October 1981 (Ley sobre Sociedades Anónimas 18046 de 1981). This law was last amended in May 2002. At present, the Senate is debating the enactment of the Capital Markets II Law (Ley de Mercados de Capitales II), which will introduce modifications to company law 18046, strengthening the corporate governance framework. Almost three years since first introduced, the bill is now expected to be approved in 2007.

The liquidation law is contained in the bankruptcy law 18175 of 1982 (with amendments 20073 and 20004 made in 2005). The amendments introduced set up pre-bankruptcy reorganisation agreements to prevent involuntary windups, and increased the transparency of the restructuring process of companies and strengthen the role of the Bankruptcy Superintendence, respectively. A proposed Capital Markets II Law will also introduce changes to the bankruptcy process.

China

Shareholder rights in China are provided by the Company Law 1993. The latest amendment to Company Law was on October 27, 2005, which will take effect on January 1, 2006. Amendments include statutory requirement for companies to allow cumulative voting or proportional representation if incorporated into the Articles of the Company. Existing shareholders will also be required to be given preemptive rights. The company has the right to decide if the existing shareholders should have the first opportunity to buy new issues of stock.

Several laws provide for Chinese creditor protection measures. The Enterprise Bankruptcy Law is applicable to state-owned enterprises (SOE). China's lawmakers have been sitting on an updated version of the 1988 bankruptcy law for several years. China's Supreme Court, in an attempt to make

the current system more workable, handed in September 2002 an interpretation of the existing bankruptcy law, which allowed judges to expedite cases before the bench. The Law of Civil Procedure of the People's Republic of China also prescribes procedures for liquidation of a company.

Colombia

The main law governing the securities market in Colombia is the Colombian Commercial Code - Código de Comercio de Colombia/1971 (Last Modified in 1997). Law 222/1995, which upgrades Book II of the Código de Comercio, presents a regime for reorganisation proceedings. Winding-up or liquidation is contained in Law 222 dated 1995. Some of the clauses related to supervision were modified by Decree 4350 dated 2006 and Section II (Articles 89 to 225) of Law 222 will be replaced by Bill 154 (this is the number of the bill approved by the House of Representatives in December 2006). In the Senate the text approved was called Bill 207 of 2005. Bill 154 establishes an insolvency regime for companies. This bill will take effect six months after promulgation, so possibly in the second half of 2007.

Corporate rescue is covered under law 550 dated 1999, which was last amended in 2002. The Código de Comercio de Colombia provides information about the mandatory legal reserve.

Law 964 of 2005 made requirements for listed companies much more stringent in terms of the professionalisation of boards, the requirement for independent committees and independent auditors. The objective was to seek better corporate governance. However, the law did not affect any of the factors measured in this report.

Czech Republic

The main law of relevance to shareholder and creditor rights in the Czech Republic is the Commercial Code (Act no. 513/1991) as amended. In addition to the Commercial Code, insolvency proceedings are governed by the Law on Bankruptcy and Compensation, No 328/1991, as amended. Act No. 182/2006 Coll. on Insolvency and its Resolution, as amended, will come into force on 1 July 2007, and introduces a new protection period known as ‘moratorium’. This can only be extended for 30 days and replaces the creditors’ committee approval with the approval of the majority of creditors to file the motion for a moratorium and an extension moratorium.

Egypt

The corporate legal framework of Egypt originates primarily from French civil law. Sharia law has no direct influence on corporate governance. While there are four laws under which a company listed on the exchange may be incorporated, the only relevant one from the perspective of shareholder and creditor rights is the Companies Law (CL 159/1981) on joint stock companies, partnerships limited by shares & limited liability companies. The version of the Companies Law used was that available from Egyptlaws.com and last updated in April 2003. The main laws governing the securities market in Egypt are the Capital Market Law (CML 95/1992), which regulates the capital market and provides the framework and supervision of the Cairo and Alexandria Stock Exchange (CASE), and the Central Depository Law (CDL 93/2000), which supports shareholder record keeping, clearing and settlement. Bankruptcy provisions can be found in the Egyptian Trade Law (sometimes called Commercial Code by translators), Law No.17 of 1999.

Hungary

The relevant law, Act IV of 2006 on Business Associations, has been issued in 2006 and effective from 18 August 2006. Among other changes, it decreases the percentage of share capital needed to hold an ESM to 5% (from 10% previously). Act XLIX of 1991 on Bankruptcy Proceedings,

Liquidation Proceedings and Voluntary Dissolution (amended by Act VI of 2006, effective from 1 July 2006) is the current law. In case of insolvency, bankruptcy procedures have to be started. Both creditors and debtors have to agree upon a reorganisation plan, which will then interrupt the liquidation procedure of the company. In case no agreement can be reached or the reorganisation is unsuccessful, liquidation procedures will be continued. A legal reserve exists although no percentage is specified (Act IV of 2006).

India

Five acts govern corporate activity in India: the Companies Act, 1956 with its periodic amendments; the Securities Contracts (Regulation) Act, 1956; and the Securities and Exchange Board of India (SEBI) Act, 1992. The latest amendments to the Companies Act, 1956 was the Companies (Second Amendment) Act, 2002 [with effect from January, 2003] and that of 2006 which allots an identification number to all existing and potential company directors.

Indonesia

Shareholder protection measures are provided by Law of The Republic of Indonesia Number 1 of 1995 Concerning Limited Liability Companies (referred to as the Company Law 1995). Reorganisation is covered in the Bankruptcy Law (Chapter II The Moratorium on Debt Repayment). Amendments to Company Law and Bankruptcy Law laws have been proposed but because there is to be a general election in Indonesia in 2004, parliament members will go into recess shortly. The current Bapepam Regulation concerning Preemptive Rights is: Regulation IX.D.1. Decision of the Chairman No. Kep 26/PM/2003 dated 17 July 2003.

Israel

The laws used were the Companies Law 5759-1999 and Nov 2002 update to Companies Regulations, obtained from Clearview Publications Ltd. Several amendments were passed affecting the Companies Law in 2005, which came into effect in April 2006, some of which have affected the proxy by mail allowance.

Creditor rights in Israel are defined in the Companies Law and the Bankruptcy Ordinance. The Financial Assets Agreements Law 5766-2006, enacted in 2006, delineates rights for creditors within the framework of master agreements involving securities repurchase transactions.

Jordan

There are two legal documents that establish the framework for corporate governance in Jordan. The Companies Law (no. 22/1997), published in the Official Gazette No 4204 dated 15 May 1997 and the rules and regulations of the Amman Stock exchange. The Companies Law is being amended to introduce matters related to corporate governance, liquidation and bankruptcy.

Jordan does not have a reorganisation law; the Companies Law provides for liquidation (articles 252 -- 277), merger, transformation, and reduction of capital. Neither does Jordan have a corporate bankruptcy law separate from the provisions laid out in the Companies Law no. (22) of year 1997 and its amendments (information from the Ministry of Trade).

Malaysia

The relevant legislation for shareholder and creditor rights are the Companies Act 1965 (Act 125), with amendments and the Bankruptcy Act of 1967. Public listed companies are governed by the Listing Requirements of Bursa Malaysia, as amended up to May 2006.

On 17 December 2003, the Companies Commission of Malaysia established the 'Corporate Law Reform Committee' (herein after referred to as the CLRC). The CLRC is to undertake a comprehensive review of the Companies Act 1965. Corporate Governance reforms are a high priority of the CLRC as one of the four working groups focuses solely on the issues of corporate governance and shareholders' rights (the others are on company formation, the raising of capital, and insolvency & corporate securities).

Mexico

Regulations for shareholder rights are primarily contained in the Ley General de Sociedades Mercantiles (Companies Law) of 4 August 1934, (last amended on 28 July 2006) and the new Ley del Mercado de Valores (Securities Market Law), which was published on 30 December 2005 and has been in force since 28 June 2006. The new Securities Market Law includes several new complementary provisions regarding shareholder rights. In particular, the law elaborates on the shareholders' rights of companies listed in the stock exchange.

The Commercial Reorganisation and Bankruptcy Law (Ley de Concursos Mercantiles) of May 2000 governs the reorganisation and the bankruptcy of corporations. This law seeks to maximise the value of a company in financial distress, promote its viability and when possible, maintain its operation and payroll. The legal framework aims to protect equally companies' and creditors' rights. The bankruptcy regime shortens the bankruptcy procedure and encourages debt restructuring.

Morocco

There are no new laws or recent amendments regarding the shareholders and creditors rights. Neither the "Code de commerce", nor the "Company law" have been recently amended. Nevertheless, it is important to mention that a Government bill on company laws is currently discussed at the Parliament and is likely to be adopted soon. It is anticipated that included in the new government bill is a move toward proxy voting by mail.

Pakistan

The Companies Ordinance 1984 (XLVII of 1984) was last updated by the Companies (Second Amendment) Ordinance 2002. Minor changes in the listing rules of the Karachi Stock Exchange (KSE) are also referenced. Overall, Pakistan's insolvency regime is a derivative of the legal system prevalent in British India prior to its establishment. Winding-up or liquidation practices are contained in the Companies Ordinance 1984, although it also refers to the bankruptcy law contained in the Provincial Insolvency Act 1920 and the Insolvency (Karachi Division) Act 1090. Additionally, legislation enacted in 1997 provides for the recovery of corporate debt by banks and development finance institutions, namely the Banking Companies (recovery of loans, advances, credits and finances) Act 1997, which may also be initiated under the Civil Procedure Code of 1882.

Peru

The corporate legal framework is set out in the Company Law 26887 of 1997 (Ley General de Sociedades 26,887 de 1997). Winding-up or liquidation practices apply to all companies as contained in the Bankruptcy Law of 2002 (Ley General del Sistema Concursal de 2002), which also covers reorganisation procedures. Additionally, the Peruvian Commercial Law (Ley General de Sociedades 26,887) provides information about the mandatory legal reserve.

Philippines

The Securities and Exchange Commission (SEC) in Resolution No.135, April 2002, approved the promulgation and implementation of a "Code of Corporate Governance", where compliance is compulsory for all registered or listed corporations. The law governing the Philippine suspension of payments proceedings is not integrated into a single code. The substantive provisions governing reorganisation and liquidation are found in the Insolvency Act (Act No. 1956). The provisions governing priority of claims are found in the Civil Code. In early 2002, a draft of a new insolvency law was proposed (Corporate Recovery Act). The bill is still under consideration for approval in Congress. The draft Act provides debt relief and recovery measures to financially distressed enterprises and offers four modes of rehabilitation: pre-negotiated rehabilitation, fast-track rehabilitation, court-supervised rehabilitation, and dissolution-liquidation. In addition, the Interim Rules of Procedure developed by the Supreme Court in December 2000 (to govern rehabilitation cases) and the Securities Regulation Code (which transferred the quasi-judicial jurisdiction of the SEC over suspension of payments and rehabilitation proceedings to the Regional Trial Courts) remain in force.

Poland

The Commercial Companies Code of September 15, 2000 (Journal of Laws no 94/1037 which entered into force on January 1, 2001) regulates partnerships (registered partnership, limited partnership, professional partnership and limited joint-stock partnership), and corporations (joint-stock company and limited liability company). The Code and its later amendments aim to modernise legal norms and align Polish standards to models prevailing in the EU.

The protection of minor shareholders is covered in Chapter 4 of the Act on public offering, conditions governing the introduction of financial instruments to organised trading, and public companies, dated July 29th, 2005 (Journal of Laws of 2005, No. 184 item 1539).

The Law on Bankruptcy and Reorganisation of February 28, 2003 (JoL no 60/535) came into force on October 1, 2003, replacing the existing Ordinances. This Law regulates principally all the issues of bankruptcy, including special procedures concerning the insolvency of banks, insurance companies and bond issuers.

Russia

The Federal Law on Joint-Stock Societies (as amended in Jan 1998) establishes shareholders' rights in Russia, while the Federal Law on Insolvency (or Bankruptcy, October 2002) regulates creditors' rights.

South Africa

The Companies Act no. 61 of 1973 provides the main framework for corporate governance. The Act was updated three times in 2003 by the Judicial Matters Amendment Act (No. 16 of 2003); the Judicial Matters Amendment Act, 2002 (No. 55 of 2002) as reported in GG 24277 dated 17 January 2003;and the Corporate Laws Amendment Act, 2002 (No. 39 of 2002) as reported in GG 24280 dated on 22 January 2003. Additional practices are included in the Insolvency Act no. 24 of 1936, amended by the Judicial Matters Amendment Act, 2003 (No. 16 of 2003) and the Judicial Matters Second Amendment Bill (B 41-2003).

South Korea

The Korean Commercial Code (KCC) and the Securities Exchange Act (SEA) govern shareholders' rights. A revised draft of the KCC was presented by the government to the National Assembly in October 2006. This draft includes some major changes, notably: separation of executive officers and the board of directors; double derivative action, under which the shareholders of a parent company can file a suit against the directors of an affiliated company; abolition of minimum capital regulation, and abolition of the limitation on the amount of a corporate bond issuance.

The Debtor Workout (Rehabilitation) and Bankruptcy Act (DWB) came into force on April 1, 2006. This act integrated the previous Bankruptcy Act and the Corporate Reorganisation Act, with the provisions of the Composition Act being for the most part discarded. Specific laws that deal with individual debtors were needed, and this Act provides for a rehabilitation program for individual debtors who have income but who are otherwise in danger of bankruptcy, discharging them from going through the bankruptcy procedure. This new law applies the same procedures to individuals as to minor and major companies. The major changes in this Act are that the composition procedure is abolished and that the management of a reorganising company does not necessarily change upon entering the reorganisation procedure, and that the law applies extra-territorially.

Sri Lanka

Public companies are incorporated under the Companies Act No. 17 of 1982, which came into force on May 20, 1982 and was amended by Amendment Act 33 of 1991. A new Companies Act was passed by Cabinet in October 2005 and went through a second House reading in October 2006. The bill aims to modernise and simplify the incorporation process and operation of Sri Lankan companies by eliminating the memorandum and articles of association (if the company so decides), removing the concept of par value for shares, allowing single shareholder companies, and allowing corporates to manage their own financial structures by permitting companies to buy back their own shares. The bill also introduces minority buyout rights, and provides for the setting up of a companies dispute board. However, none of these changes affect the shareholder rights considered in this report.

The new Companies Act is expected to improve creditors rights in the case of insolvency. A clear-cut procedure has been laid down, with creditors and contributories been given the opportunity to question any action in winding up by making an application to Court. Another novel feature is the power granted to the Board of Directors of a company to appoint an administrator to ensure the future survival of the company. The new provisions are likely to come into force during the first quarter of 2007.

Taiwan

Provisions for shareholder rights in Taiwan are found in the Company Law 1929, amended on November 12, 2001, June 22, 2005 and February 3, 2006. Amendments to the Company Law in 2006 allow proxy by mail and e-mail.

The Company Law (Section X Reorganization of a Company) provides a formal rescue mechanism for companies in financial difficulty via Court Reorganisation. This mechanism is available only to companies that publicly issue shares or corporate bonds (Article 282). The Bankruptcy Law states procedures for composition or bankruptcy. Most measures for shareholders and creditors are contained in the Company Law. Taiwan's Securities and Futures Commission and Ministry of Finance also promulgated "Rules Governing the Use of Proxies for Attendance at Shareholder Meetings of Public Companies" in 2002, which were further amended in May 2003 and in January 2004.

Thailand

Relevant legislation/regulations include the Public Limited Company Act B.E. 2535, the Civil and Commercial Code and the Securities and Exchange Act B.E. 2535 (false disclosure if the securities offered for sale are stocks). In addition, the Securities and Exchange Act B.E. 2535 (1992) covers false disclosure if the securities offered for sale are stocks. The SEC Board approved the proposal for amendments to the SEC Act which, among others, will further define shareholder's rights (especially minority shareholders) and improve corporate governance. The law will likely be passed in 2007.

Creditor rights during reorganisation and bankruptcy are provided in the Bankruptcy Act B.E.2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999). It is noted that the Bankruptcy Act (No.5) B.E 2542 (1999) was further amended (No. 6) in 2003 -- but these changes had very limited effect.

Turkey

The structure and organisation of joint stock companies are subject to regulation by the Turkish Commercial Code. Capital Market Board regulations also apply to joint stock companies whose shareholders' number at least 250, or who have issued bonds or whose shares are quoted on the Istanbul Stock Exchange. In 2006, a draft was submitted for a new Turkish Commercial Code, although it is not yet known when it will go through parliament. The draft aims to update the old code, and run in alignment to the Capital Markets Law, also harmonising with EU directives. Some changes to the Capital Markets Law will also be made as a result of the new Commercial Code.

Bankruptcy is governed by the Execution and Bankruptcy Act of 1929, as amended up to 2003 and further in 2004.

Venezuela

There were no changes to shareholder and creditor rights this year. The main laws governing the securities market in Venezuela are the Capital Markets Law dated 1998 (Ley de Mercado de Capitales de 1998) and the Commercial Code of 1955 (Código de Comercio de 1955). Winding-up or liquidation law applies to companies as established under the Commercial Code and the Civil Proceedings Code of 1990 (Código de Procedimiento Civil de 1990). Corporate rescue/restructuring is contemplated under the Commercial Code, but there is no law exclusively on bankruptcy, corporate restructuring or reorganisation processes. Special laws regulate some institutions (for example, banks, financial institutions and insurance firms), such that their bankruptcy/reorganisation procedures are spelled out in circulars. However, the Capital Markets Law includes Article 10 that specifies that the stock market regulator (Comisión Nacional de Valores) has the power to regulate bankruptcy/reorganisation for companies under its jurisdiction. Articles 82 and 83 relate to these issues in the case of brokerage companies.

Argentina – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The main law governing the securities market in Argentina is Company Law 19.550 (Ley de Sociedades Comerciales- 19.550). The Sociedad Anonima (S.A.) corresponds to a Partner Limited Company in which the corporate capital is divided into shares. The responsibility of the partners is limited to the contribution made or to be made to the company. Its principal agencies are the shareholders meeting -- which should meet at least once a year -- and the Board of Directors, composed of directors chosen by shareholders agreement. Presidential Decree 677/01 of May 2001 introduced some corporate governance provisions for public tender offers of financial instruments. The regulation has strengthened provisions for the disclosure of information for companies that falls under its scope. In addition, Decree 677/01 sets up actions considered against transparency regarding the offer of public tenders. Limitations to the use of privileged information and minimum information requirements of companies that operates with public tender of financial instruments are also among the topics covered by this Decree. The National Securities Commission has increased its surveillance role, with more powers to apply sanctions.	
One share -one vote	0	**SUMMARY**	Article 216 states that each ordinary share gives the right to one vote, although the company bylaws can allow for different classes of ordinary shares with up to five votes per share.	
		Article 207	Las acciones serán siempre de igual valor. Aun así, el estatuto puede prever diversas clases con derechos diferentes; otorgando los mismos derechos dentro de cada clase. Es nula toda disposición en contrario.	Ley de Sociedades Comerciales 19.550
		Article 177	Cada suscriptor tiene derecho a tantos votos como acciones haya suscripto e integrado en la medida fijada. Las decisiones se adoptarán por la mayoría de los suscriptores presentes que representen no menos de la tercera parte del capital suscripto con derecho a voto, sin que pueda estipularse diversamente.	
		Article 216	Cada acción ordinaria da derecho a un voto. El estatuto puede crear clases que reconozcan hasta cinco votos por acción ordinaria. [...] No pueden emitirse acciones de voto privilegiado después que la sociedad haya sido autorizada a hacer oferta pública de sus acciones.	
Proxy by mail allowed	0	**SUMMARY**	Article 239, which states the proxy rights of shareholders, makes no reference to proxy by mail.	

		Article 239	Actuación por mandatario Los accionistas pueden hacerse representar en las asambleas. No pueden ser mandatarios los directores, los síndicos, los integrantes del consejo de vigilancia, los gerentes y demás empleados de la sociedad. Es suficiente el otorgamiento del mandato en instrumento privado con la firma certificada en forma judicial, notarial o bancaria, salvo disposición en contrario del estatuto.	Ley de Sociedades Comerciales 19.550
Shares not blocked before meeting	0	**SUMMARY**	Article 238 requires shareholders to deposit their shares at least 3 working days prior to the date of each General Assembly or Extraordinary General Assembly. There is no requirement to block shares.	
		Article 238	Depósito de las acciones Para asistir a las asambleas, los accionistas deben depositar en la sociedad sus acciones o un certificado de depósito o constancia de las cuentas de acciones escriturales librado al efecto por un banco, caja de valores u otra institución autorizada para su registro en el libro de asistencia a las asambleas con no menos de tres (3) días hábiles de anticipación al de la fecha fijada. La sociedad les entregará los comprobantes necesarios de recibo, que servirán para la admisión a la asamblea. Libro de Asistencia Los accionistas o sus representantes que concurran a la asamblea firmarán el libro de asistencia en el que se dejará constancia de sus domicilios, documentos de identidad y número de votos que les corresponda. Certificados No se podrá disponer de las acciones hasta después de realizada la asamblea excepto en el caso de cancelación del depósito. Quien sin ser accionista invoque los derechos que confiere un certificado o constancia que le atribuye tal calidad, responderá por los daños y perjuicios que se irroguen a la sociedad emisora, socios y terceros; la indemnización en ningún caso será inferior al valor real de las acciones que haya invocado al momento de la convocatoria de la asamblea. […]	Ley de Sociedades Comerciales 19.550
Cumulative voting / proportional representation	1	**SUMMARY**	Article 263 allows shareholders to elect up to one third of the directors through the cumulative voting system.	
		Article 263	Elección por acumulación de votos Los accionistas tienen derecho a elegir hasta un tercio (1/3) de las vacantes a llenar en el directorio por el sistema de voto acumulativo. El estatuto no puede derogar este derecho, ni reglamentarlo de manera que dificulte su ejercicio; pero se excluye en el supuesto previsto en el artículo 262 -- cuando existan diversas clases de acciones. El Directorio no podrá renovarse en forma parcial o escalonada, si de tal manera se impide el ejercicio del voto acumulativo. […]	Ley de Sociedades Comerciales 19.550

Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Shareholders have the right to step out of the company and to the obligatory repurchase of their shares. Individual regulations overriding this general principle are considered void. "Supuestos Especiales" allows a shareholder to withdraw from the company when he disagrees with the company's transformation, or to changes in its bylaws. Decree 677/01 establishes special protections for minority shareholders regarding public tender offers of financial instruments.	
		Supuestos especiales	Cuando se tratare de la transformación, prórroga o reconducción, excepto en las sociedades que hacen oferta pública o cotización de sus acciones; de la disolución anticipada de la sociedad; de la transferencia del domicilio al extranjero, del cambio fundamental del objeto y de la reintegración total o parcial del capital, tanto en primera cuanto en Segunda convocatoria. Las resoluciones se adoptarán por el voto favorable de la mayoría de acciones con derecho a voto, sin aplicarse la pluralidad de voto. Esta disposición se aplicará para decidir la fusión y la escisión, salvo respecto de la sociedad incorporante que se regirá por las normas sobre aumento de capital.	Ley de Sociedades Comerciales 19.550
		Article 245	Derecho de receso Los accionistas disconformes con las modificaciones incluidas en el último párrafo del artículo 244, salvo en el caso de disolución anticipada y en el de los accionistas de la sociedad incorporante en la fusión y en la escisión, pueden separarse de la sociedad con reembolso del valor de sus acciones. También podrán separarse en los casos de aumentos de capital que competan a la asamblea extraordinaria y que impliquen desembolso para el socio, de retiro voluntario de la oferta pública o de la cotización de las acciones y de continuación de la sociedad en el supuesto de disolución de la sociedad por sanción firme de cancelación de oferta pública o de la cotización de sus acciones. El derecho de receso sólo podrá ser ejercido por los accionistas presentes que votaron en contra de la decisión dentro del quinto día y por los ausentes que acrediten la calidad de accionistas al tiempo de la asamblea, dentro de los quince (15) días de su clausura.	
		Article 25	Régimen de Participaciones Residuales. Lo dispuesto en el presente Capítulo es aplicable a todas las sociedades anónimas cuyas acciones estén admitidas a la cotización. Cuando una sociedad anónima quede sometida a control casi total: a) Cualquier accionista minoritario, según lo define el artículo 26 del Decreto 677/01, podrá, en cualquier tiempo, intimar a la persona controlante para que ésta haga una oferta de compra a la totalidad de los accionistas minoritarios; b) Dentro del plazo de SEIS (6) meses desde la fecha en que haya quedado bajo el control casi total de otra persona, esta última podrá emitir una declaración unilateral de voluntad de adquisición de la totalidad del capital social remanente en poder de terceros.	Decree No. 677/01

		Article 26	Control casi total. Accionistas minoritarios. A los efectos de lo dispuesto en el presente Capítulo: a) Se entiende que se halla bajo control casi total toda sociedad anónima respecto de la cual otra persona física o jurídica, ya sea en forma directa o a través de otra u otras sociedades a su vez controladas por ella, sea titular del 95 % o más del capital suscripto. [...] d) Se define como accionistas minoritarios a los titulares de acciones de cualquier tipo o clase, así como a los titulares de todos los otros títulos convertibles en acciones que no sean de la persona controlante. e) La legitimación para ejercer el derecho atribuido a los accionistas minoritarios sólo corresponde a quienes acrediten la titularidad de sus acciones o de sus otros títulos a la fecha en que la sociedad quedó sometida a control casi total; para el caso de sociedades que ya se hallen en esa situación a la fecha de entrada en vigencia del presente Decreto, la legitimación corresponde a quienes acrediten tal titularidad a esta última fecha; la legitimación sólo se transmite a los sucesores a título universal. f) La sociedad o persona controlante y la sociedad controlada deberán comunicar a la Comisión Nacional de Valores y a la entidad autorregulada en que la sociedad controlada cotiza sus acciones el hecho de hallarse en situación de control casi total… La Comisión Nacional de Valores podrá establecer los procedimientos para que los accionistas minoritarios sean informados del hecho…A, falta de comunicación por parte de la persona controlante o de la persona controlada, los accionistas minoritarios podrán solicitar a la Comisión Nacional de Valores que constate la existencia de una situación de control casi total. En caso de constatarse dicha situación, la Comisión Nacional de Valores la notificará a los accionistas minoritarios por el medio que estime adecuado, y éstos quedarán a partir de entonces, habilitados para ejercer el derecho que les concede el artículo 27 del presente Decreto.	
		Article 27	Derecho de los accionistas minoritarios. Intimada la persona controlante para que ésta haga a la totalidad de los accionistas minoritarios una oferta de compra, si la persona controlante acepta hacer la oferta, podrá optar por hacer una Oferta Pública de Adquisición o por utilizar el método de la declaración de adquisición reglamentada en los artículos 28 y siguientes del Decreto 677/01. En caso de que la persona controlante sea una sociedad anónima con cotización de sus acciones y estas acciones cuenten con oferta pública en mercados del país o del exterior autorizados por la Comisión Nacional de Valores, la sociedad controlante, adicionalmente a la oferta en efectivo, podrá ofrecer a la totalidad de los accionistas minoritarios de la sociedad bajo control casi total que éstos opten por el canje de sus acciones por acciones de la sociedad controlante. La sociedad controlante deberá proponer la relación de canje sobre la base de balances confeccionados de acuerdo a las reglas establecidas para los balances de fusión. La relación de canje deberá contar, además, con el respaldo de la opinión de uno o más evaluadores independientes especializados en la materia.	
Preemptive right to new issues	1	**SUMMARY**	Owners of ordinary shares hold the preemptive right to purchase new shares prior to their release into the market.	

		Article 194	Suscripción preferente Las acciones ordinarias, sean de voto simple o plural, otorgan a su titular el derecho preferente a la suscripción de nuevas acciones de la misma clase en proporción a las que posean, excepto en el caso del artículo 216, último párrafo; también otorgan derecho de acrecer en proporción a las acciones que hayan suscripto en cada oportunidad. Cuando con la conformidad de las distintas clases de acciones expresada en la forma establecida en el artículo 250, no se mantenga la proporcionalidad entre ellas, sus titulares se considerarán integrantes de una sola clase para el ejercicio del derecho de preferencia. Los accionistas podrán su derecho de opción dentro de los treinta (30) días siguientes al de la última publicación, si los estatutos no establecieran un plazo mayor. Tratándose de sociedades que hagan oferta pública, la asamblea extraordinaria podrá reducir este plazo hasta un mínimo de diez (10) días, tanto para sus acciones como para debentures convertibles en acciones.	Ley de Sociedades Comerciales 19.550
		Article 216	Cada acción ordinaria da derecho a un voto. (Included as reference as it is mentioned in article 194).	
% of share capital to call an ESM	5%	**SUMMARY**	Shareholders can call an ESM if they own at least five percent of the shareholder capital. The company bylaws may establish a lower proportion	
		Article 236	Convocatoria: oportunidad. Plazo Las asambleas ordinarias y extraordinarias serán convocadas por el directorio o el síndico en los casos previstos por la ley, o cuando cualquiera de ellos lo juzgue necesario o cuando sean requeridas por accionistas que representan por lo menos el cinco por ciento (5 %) del capital social, si los estatutos no fijaran una representación menor. En este último supuesto la petición indicará los temas a tratar y el directorio o el síndico convocará la asamblea para que se celebre en el plazo máximo de cuarenta (40) días de recibida la solicitud. […]	Ley de Sociedades Comerciales 19.550
Mandatory dividend	0	**SUMMARY**	While the law mentions the right of shareholders to receive part of the company's earnings as dividends, there is no reference to a minimum percentage of net earnings that should go to pay dividends to shareholders.	
		Article 218	Usufructo de acciones. Derecho del usufructo […] El usufructuario tiene derecho a percibir las ganancias obtenidas durante el usufructo. Este derecho no incluye las ganancias pasadas a reserva o capitalizadas, pero comprende las correspondientes a las acciones entregadas por la capitalización.	Ley de Sociedades Comerciales 19.550

Argentina – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The winding up or liquidation law applies to companies and is contained in the restructuring and bankruptcy law 24.522 (Ley de concursos y quiebras 24.522). This law was last modified by laws 25563, 25589, 25640 and 26086). Corporate rescue, i.e. restructuring, is covered under the same law. Additionally, Argentina's commercial law (Ley de Sociedades Comerciales 19.550) provides information about the mandatory legal reserve. Following Resolution 17/2004 of the General Justice Inspectorate, released in September 2004, the Commercial Public Registry has to keep an electronic record of all the persons who have been commercially disqualified following bankruptcy proceedings before the Federal District Tribunals. Increasing requirements for companies operating in the Federal District is gradually promoting the establishment of more business in the provinces.	
Restrictions on going into reorganisation	1	**SUMMARY**	Article 69 states the right of creditors to participate in the decision of whether to reorganise the company or to declare its bankruptcy. However, in article 73, the law requires that at least an absolute majority of creditors, representing 2/3 of short term lenders, approve the agreement -- excluding from this other types of creditors such as debenture holders, convertible bonds and negotiable obligations. As a result, the law potentially leaves unprotected the rights of 1/3 of creditors, if they oppose the agreement.	
		Article 69	Legitimado El deudor que se encontrare en cesación de pagos o en dificultades económicas o financieras de carácter general, puede celebrar un acuerdo con sus acreedores y someterlo a homologación judicial.	Ley de concursos y quiebras N° 24.522
		Article 73	Mayorias Para que se dé homologación judicial al acuerdo es necesario que hayan prestado su conformidad la mayoría absoluta de acreedores quirografarios que representen las dos terceras partes del pasivo quirografario total, excluyéndose del cómputo a los acreedores comprendidos en las previsiones del artículo 45 (estos acreedores son los titulares de debentures, bonos convertibles, obligaciones negociables u otros títulos emitidos en serie que representen créditos contra el concursado).	
		Definición	El préstamo quirografario, llamado también directo o en blanco, es una operación de crédito a corto plazo, que consiste en entregar cierta cantidad a una persona física o moral, obligando a ésta, mediante la suscripción de uno o varios pagarés, a reembolsar la cantidad recibida más los intereses estipulados, en el plazo previamente convenido.	

No automatic stay on assets	0	**SUMMARY**	Under the terms of article 58, a creditor is entitled to request the payment of his loan, but this process is not automatic. A judge needs to approve this payment. The judge gives the order either to cancel the debt obligation or to keep the asset under custody until the termination of the reorganisation process.	
		Article 58	Reclamacion contra Creditos Admitidos: Efectos La reclamación contra la declaración de admisibilidad de un crédito o privilegio no impide el cumplimiento del acuerdo u obligación respectiva, debiendo el concursado poner a disposición del juzgado la prestación a que tenga derecho el acreedor, si éste lo solicita. El juez puede ordenar la entrega al acreedor o disponer la forma de conservación del bien que el concursado deba entregar. En el primer caso, fijará una caución que el acreedor deberá constituir antes de procederse a la entrega. En el segundo, determinará si el bien debe permanecer en poder del deudor o ser depositado en el lugar y forma que disponga. La resolución que se dicte sobre lo regulado por el apartado precedente es apelable.	Ley de concursos y quiebras N° 24.522
Secured creditors first (paid)	1	**SUMMARY**	Article 243 states that different types of creditors are given a priority of payment for their loans according to the numeric order in which they are listed under the text of article 241. There are two exceptions to this rule (article 243). (1) Items four and six of the list in article 241, refer to secured loans (item 4) and other special type of loans (item 6). These two types of obligations should be paid at their date of expiration. Second, secured creditors for whom their right of retention for a collateralised asset started to take effect at a date prior to that of the starting date of the obligations of other creditors with special privileges ('Créditos con Privilegio Especial') shall have the first order of priority during payment. In sum, both restrictions result in the protection of secured creditors against the claims of other creditors, such as those of workers or the state.	
		Article 243	Orden de los Privilegios Especiales Los privilegios especiales tienen la prelación que resulta del orden de sus incisos, salvo: 1) en el caso de los incisos 4 y 6 del Artículo 241, en que rigen los respectivos ordenamientos; 2) el crédito de quien ejercía derecho de retención prevalece sobre los créditos con privilegio especial si la retención comenzó a ejercerse antes de nacer los créditos privilegiados. Si concurren créditos comprendidos en un mismo inciso y sobre idénticos bienes, se liquidan a prorrata.	Ley de concursos y quiebras N° 24.522

		Article 241	Creditos con Privilegio Especial Tienen privilegio especial sobre el producido de los bienes que en cada caso se indica: 1) Los gastos hechos para la construcción, mejora o conservación de una cosa, sobre ésta, mientras exista en poder del concursado por cuya cuenta se hicieron los gastos; 2) Los créditos por remuneraciones debidas al trabajador por seis (6) meses y los provenientes por indemnizaciones por accidentes de trabajo, antigüedad o despido, falta de preaviso y fondo dedesempleo, sobre las mercaderías, materias primas y maquinarias que, siendo de propiedad, del concursado, se encuentren en el establecimiento donde haya prestado sus servicios o que sirvan para su explotación; 3) Los impuestos y tasas que se aplican particularmente a determinados bienes, sobre éstos; 4) Los créditos garantizados con hipoteca, prenda, warrant y los correspondientes a debentures y obligaciones negociables con garantía especial o flotante; 5) Lo adeudado al retenedor por razón de la cosa retenida a la fecha de la sentencia de quiebra. El privilegio se extiende a la garantía establecida en el Artículo 3943 del Código Civil; 6) Los créditos indicados en el Título III del Capítulo IV de la ley N. 20.094, en el Título IV del Capítulo VII del Código Aeronáutico (ley 17.285), los del Artículo 53 de la ley 21.526, los de los Artículos 118 y 160 de la ley 17.418. Referencias Normativas: Ley 340 Art.3943, Ley 17.285, Ley 17.418 Art.118, Ley 17.418 Art.160, Ley 20.094, Ley 21.526 Art.53.	
		Article 245	Subrogacion Real El privilegio especial se traslada de pleno derecho sobre los importes que sustituyan los bienes sobre los que recaía, sea por indemnización, precio o cualquier otro concepto que permita la subrogación real.	
Management replaced	0	**SUMMARY**	Under Article 15, the old management team retains operational control of the business during the reorganisation process. Article 14 describes the appointment of a supervisor whose function is to oversee the running of the company and to report to the judge about the status of the reorganisation proceeds. Article 17 specifies that there are certain cases where actions taken by the management could trigger a decision from the judge to order the replacement of the old management team. Those cases are outlined under articles 16 and 25.	
		Article 14	Resolucion de apertura. Contenido Cumplidos en debido tiempo los requisitos legales, el juez debe dictar resolución que disponga: […] 2) La designación de audiencia para el sorteo del síndico. 12) El síndico deberá emitir un informe mensual sobre la evolución de la empresa, si existen fondos líquidos disponibles y el cumplimiento de las normas legales y fiscales.	Ley de concursos y quiebras N° 24.522

		Article 15	Administracion por el Concursado El concursado conserva la administración de su patrimonio bajo la vigilancia del síndico.	
		Article 16	Actos Prohibidos El concursado no puede realizar actos a título gratuito o que importen alterar la situación de los acreedores por causa o título anterior a la presentación. Pronto pago de créditos laborales. Dentro del plazo de 10 días de emitido el informe que establece el artículo 14 inciso 11), el Juez del concurso autorizará el pago de las remuneraciones debidas al trabajador, las indemnizaciones por accidentes de trabajo o enfermedades laborales y las previstas en los artículos 132 bis., 232, 233 y 245 a 254, 178, 180 y 182 de la Ley Nº 20.744; artículo 6º a 11 de la Ley Nº 25.013; las indemnizaciones previstas en la Ley Nº 25.877, en los artículos 1º y 2º de la Ley Nº 25.323; en los artículos 8º, 9º, 10, 11 y 15 de la Ley Nº 24.013; en el artículo 44 y 45 de la Ley Nº 25.345 y en el artículo 16 de la Ley Nº 25.561, que gocen de privilegio general o especial y que surjan del informe mencionado en el inciso 11 del artículo 14. (…) Previa vista al síndico y al concursado, el juez podrá denegar total o parcialmente el pedido de pronto pago mediante resolución fundada, sólo cuando se tratare de créditos que no surgieren de los libros que estuviere obligado a llevar el concursado, existiere duda sobre su origen o legitimidad, se encontraren controvertidos o existiere sospecha de connivencia entre el peticionario y el concursado. En todos los casos la decisión será apelable. La resolución judicial que admite el pronto pago tendrá efectos de cosa juzgada material e importará la verificación del crédito en el pasivo concursal. La que lo deniegue, habilitará al acreedor para iniciar o continuar el juicio de conocimiento laboral ante el juez natural. No se impondrán costas al trabajador en la solicitud de pronto pago, excepto en el caso de connivencia, temeridad o malicia. Los créditos serán abonados en su totalidad, si existieran fondos líquidos disponibles. En caso contrario y hasta que se detecte la existencia de los mismos por parte del síndico se deberá afectar el 1% mensual del ingreso bruto de la concursada. El síndico efectuará un plan de pago proporcional a los créditos y sus privilegios. En el control e informe mensual que la sindicatura deberá realizar, incluirá las modificaciones necesarias, si existen fondos líquidos disponibles, a los efectos de abonar la totalidad de los prontos pagos o modificar el plan presentado. Actos sujetos a autorización. Debe requerir previa autorización judicial para realizar cualquiera de los siguientes actos: los relacionados con bienes registrables; los de disposición o locación de fondos de comercio; los de emisión de debentures con garantía especial o flotante; los de emisión de obligaciones negociables con garantía especial o flotante; los de constitución de prenda y los que excedan de la administración ordinaria de su giro comercial. La autorización se tramita con audiencia del síndico y del comité de acreedores; para su otorgamiento el juez ha de ponderar la conveniencia para la continuación de las actividades del concursado y la protección de los intereses de los acreedores.	

		Article 17	Actos Ineficaces Los actos cumplidos en violación a lo dispuesto en el Artículo 16 son ineficaces de pleno derecho respecto de los acreedores. Separación de la administración. Además, cuando el deudor contravenga lo establecido en los Artículos 16 y 25 o cuando oculte bienes, omita las informaciones que el juez o el síndico le requieran, incurra en falsedad en las que produzca o realice algún acto en perjuicio evidente para los acreedores, el juez puede separarlo de la administración por resolución fundada y designar reemplazante. Esta resolución es apelable al solo efecto devolutivo, por el deudor. Si se deniega la medida puede apelar el síndico. El administrador debe obrar según lo dispuesto en los artículos 15 y 16. Limitación. De acuerdo con las circunstancias del caso, el juez puede limitar la medida a la designación de un coadministrador, un veedor o un interventor controlador, con las facultades que disponga. En todos los casos, el deudor conserva en forma exclusiva la legitimación para obrar, en los actos del juicio que, según esta ley, correspondan al concursado.	
		Article 25	Viaje al Exterior El concursado y, en su caso, los administradores y socios con responsabilidad ilimitada de la sociedad concursada, no pueden viajar al exterior sin previa comunicación al juez del concurso, haciendo saber el plazo de la ausencia, el que no podrá ser superior a cuarenta (40) días corridos. En caso de ausencia por plazos mayores, deberá requerir autorización judicial.	
Legal reserve	20%	**SUMMARY**	The law mandates a legal reserve amounting to twenty percent of shareholders' capital.	
		Article 70 Legal Reserve	Las sociedades de responsabilidad limitada y las sociedades por acciones, deben efectuar una reserva no menor del cinco por ciento (5%) de las ganancias realizadas y líquidas que arroje el estado de resultados del ejercicio, hasta alcanzar el veinte por ciento (20%) del capital social. Cuando esta reserva quede disminuida por cualquier razón, no pueden distribuirse ganancias hasta su reintegro. En cualquier tipo de sociedad podrán constituirse otras reservas que las legales, siempre que las mismas sean razonables y respondan a una prudente administración. […]	Ley de Sociedades Comerciales - 19.550

Brazil – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Shareholder rights in Brazil are prescribed in Law 6,404 of December 1976 (the "Corporation Law"), as amended in 2001 by Law 10,303. The Corporation Law regulates the sociedade anônima, which is the corporate form most closely resembling a joint-stock company or corporation. The essential rights of a shareholder of a sociedade anônima are set forth in Article 109 of the Corporation Law. According to this article, neither the by-laws nor a resolution by a meeting of shareholders can deprive a shareholder of the following rights (or of the remedies and lawsuits available to assure such rights): (i) to participate in the profits; (ii) to participate in the assets of the company in case of its liquidation; (iii) to monitor the management of the company pursuant to the exercise of certain shareholders' rights discussed below; (iv) the preemptive right in the primary subscription of shares, participation certificates convertible into shares, debentures convertible into shares and/or subscription bonuses; and (v) to withdraw from the company in case of certain fundamental changes in the company. Shareholders are free to resign from any of their own rights. A sociedade anônima may be either private or public. Procedures for public companies can be found in additional regulations, such as Law 6,385 of December 1976, as amended (the "Securities Markets Law") and several Instructions issued by the Comissão de Valores Mobiliários -- CVM, the Brazilian capital markets regulator. The Securities Markets Law sets forth, among other subjects, basic rules for the issuing and distribution of securities on the market; the trading and intermediation on the securities market; the organisation, functioning of, and transactions on, stock exchanges; and the auditing of publicly held companies. The CVM Instructions provide the procedures to be followed in connection with the Corporation Law and Securities Markets rules. Relevant legislation/regulations: • Law 6,404, of December 15, 1976, as amended (for closed and public companies). • Law 6,385, December 7, 1976, as amended (for public companies only). • CVM Instructions (for public companies only).	
One share-one vote	1	**SUMMARY**	According to Article 110 ordinary shares have the right to one vote per share. In Brazil, however, most shares traded in the stock market are preferred shares, which may not hold the right to vote, or have restricted voting rights, except in the circumstances described in paragraphs one through three of article 111. If the company has issued preferred shares, but bylaws are silent about which rights are given to such preferred shares, then all of these preferred shares would have voting rights. During the last two years, many companies (existing and newly listed) voluntarily converted their preferred shares into common shares, or, in other cases, granted important voting rights to its preferred shareholders in fundamental corporate transactions, in order to adhere to the listing requirements of Bovespa's special corporate governance segments.	

		Article 110	Each common share shall carry the right to one vote in the resolutions of a general meeting. Paragraph 1. The bylaws may restrict the number of votes of each shareholder. Paragraph 2. No class of shares may carry more than one vote in respect of each share.	Corporation Law no. 6,404
		Article 111	Preferred Shares The bylaws may withhold from the preferred shares one or more of the rights assigned to the common shares, including the right to vote, or may grant such rights with restrictions, subject to the provisions of article 109. Paragraph 1. A preferred share without a right to vote shall acquire such a right if, during a period provided for in the bylaws, which shall not exceed three consecutive fiscal years, the corporation fails to pay the fixed or minimum dividend to which the share is entitled, and the right shall continue until payment has been made, if the dividend is not cumulative, or until all cumulative dividends in arrears have been paid. Paragraph 2. In the circumstances and under the same conditions as laid down in paragraph 1, any restrictions on the voting right of a preferred share shall be suspended. Paragraph 3. The bylaws may provide that the provisions of paragraphs 1 and 2 shall become effective after completion of the initial undertaking of the corporation.	
		Article 18, 19	Article 18. The bylaws may provide for one or more classes of preferred shares to have the right to elect one or more members of the administrative bodies by separate ballot. Sole Paragraph. The bylaws may require that specific statutory amendments be approved at a special shareholders' meeting by the shareholders of one or more classes of preferred shares. Article 19. The bylaws of a corporation having preferred shares shall state the advantages attributed to each class of such shares and the restrictions to which they shall be subject, and may provide for redemption, amortization or conversion of shares from one class into another and into common shares, and of the latter into preferred shares, and shall establish the respective conditions for each of the foregoing.	
		Article 125	Preferred shareholders are allowed to attend to any shareholder meeting, and to discuss the items therein submitted, even if such preferred shares do not hold voting rights, or hold only restricted voting rights.	
Proxy by mail allowed	0	**SUMMARY**	Under the terms of article 126, a shareholder is allowed to name a proxy to represent him during a shareholders meeting. Proxy votes by mail are not provided for under Brazilian legislation.	

		Article 126	The people attending a general meeting shall produce proof of their shareholder status, in accordance with the following rules: I - upon request, an owner of a registered share shall exhibit a document proving his identity; II - if required by the bylaws, an owner of a book entry share or of a share in custody, according to the provisions of article 41, shall exhibit or deposit at the corporation, in addition to a document proving his identity, the corresponding proof produced by the financial institution; (Text as determined by Law no. 9.457 of May 5, 1997) III - an owner of a bearer share shall exhibit the corresponding certificate, or a receipt of deposit as provided in item II, above; IV - an owner of a book share or a share held in custody under article 41; shall exhibit, in addition to the identification document, or deposit with the corporation if required by the bylaws, a voucher issued by the depositary financial institution. Paragraph 1. A shareholder may be represented at a general meeting by a proxy appointed less than one year before, who shall be another shareholder, a corporation officer or a lawyer; in a publicly held corporation, the proxy may also be a financial institution. A condominium shall be represented by its investment fund officer. Paragraph 2. A request for the appointment of a proxy, made by post or by public notice, shall be subject to the regulations which may be issued by the Comissão de Valores Mobiliários and shall satisfy the following requirements: (a) contain all information necessary to exercise the requested vote; (b) entitle the shareholder to vote against a resolution by appointing another proxy to exercise the said vote; (c) be addressed to all shareholders whose addresses are kept by the corporation. (Text as determined by Law no. 9.457 of May 5, 1997) Paragraph 3. Subject to the requirements of the previous paragraph, any shareholder whose shares with or without voting rights represent one-half per cent or more of the capital shall be entitled to request a list of the addresses of the shareholders for the purpose of paragraph 1, above. (Text as determined by Law no. 9.457 of May 5, 1997) Paragraph 4. The legal representative of a shareholder shall be authorized to attend general meetings.	Corporation Law no. 6,404
Shares not blocked before meeting	1	**SUMMARY**	In article 126, which outlines the main requirements for shareholders to attend a shareholders meeting, there is no mention of shareholders being barred from trading their shares prior to a shareholders meeting. In public companies, however, the company bylaws can set minimum requirements for showing up at a Shareholder's meeting; for example that the shares be registered at least 72 hours prior to the General Shareholder Meeting (GSM). In the case of a public company, section 13 of the Instruction CVM 358/02 sets forth a wide set of black-out period provisions and, if any of such provisions occurs before a shareholders meeting, a ban on trading is required to be followed by some shareholders, officers or directors of the company, as the case may be. Instruction CVM 400/03 also sets forth black-out periods applicable in the case of primary or secondary public offerings.	Corporation Law no. 6,404

Cumulative voting / proportional representation	1	**SUMMARY**	Under the terms of article 141, shareholders who own at least ten percent of the voting capital are allowed to request that their votes be cast using the multiple voting principle. Cumulative voting rights must be exercised with 48 hours' notice before the shareholders' meeting, no matter whether expressly provided for in the company's bylaws. The number of votes necessary for the election of each director must be told to the shareholders by the person who takes the chair of the meeting, based on the attendance book. In the event of a tie, a new cast is made to fulfil the position under the same cumulative voting procedure. The removal of any director appointed under a cumulative voting procedure results in the removal of the remaining members and a new cast for appointment of the entire Board of Directors. As per Article 141, shareholders representing 15 percent of voting capital have the right to appoint one board member, whereas PN shareholders can elect one director, provided they hold at least 10% of the shares of capital. If neither of these thresholds is reached, the two groups may jointly nominate one director with 10 percent of share capital. Similar proportional election devices are granted to the minority shareholders in the case of the Fiscal Board (Conselho Fiscal).	Corporation Law no. 6,404
		Article 141	Multiple Vote Article Whether or not provided for in the bylaws, when electing the members of the board of directors, shareholders representing at least one-tenth of the voting capital may request that a multiple voting procedure be adopted to entitle each share to as many votes as board positions to be fulfilled and to give each shareholder the right to vote cumulatively for only one candidate or to distribute his votes among several candidates. Paragraphs 1-8 article 141 further define the rights of preferred shareholders with regards to voting rights.	Corporation Law no. 6,404
		Article 161, § 4	Paragraph 4. The following rules shall be observed in appointing the statutory audit committee: (a) the holders of preferred shares without voting rights or with restricted voting rights shall be entitled to elect one member and his alternate in a separate election; the minority shareholders shall have the same right, provided they jointly represent ten per cent or more of the voting shares; (b) notwithstanding the provisions of the previous item, the other shareholders with the right to vote may elect the effective members and the alternates, who, in any event. shall be equal in number to those elected under sub-paragraph (a), above, plus one.	Corporation Law no. 6,404

Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Shareholders may file actions (a) against other shareholders seeking, for example, compliance with voting obligations assumed under shareholders' agreements; (b) against management, holding them liable for damage caused to the company's assets or for acting against the best interests of the company; (c) against the company, exercising the rights to which they are entitled as regards the company, for example, the right to receive dividends; (d) against the controlling shareholders, when they act in prejudice of shareholders' interests. Brazilian law only permits a shareholder to represent the company in judicial actions in cases where the management is held liable for the acts performed during management of the company, and considering that any award granted to the shareholder shall inure to the benefit of the company. Other ownership rights of the company that possibly are not exercised by management may not be claimed on behalf of the company (derivative action) by shareholders that disagree with the inertia of company management. In this case, however, shareholders preserve their individual right to protect personal equity by means of court actions that prevent or redress any damage caused to them by company management. Lawsuits involving violation of shareholders' rights are generally heard by State Court judges, with the exception of cases involving federal public entities in which the Federal Courts are attributed competence. Although there is no special judicial venue solely for the minority shareholders and no special courts have been assigned to hear corporate cases, regular courts have been a reasonably reliable mechanism for protecting shareholders rights. It is worth mentioning that in a number of cases courts have granted preliminary injunctions to suspend the effects of attempted abuse of power.	
		Article 158	A manager shall not be personally liable for the commitments he undertakes on behalf of the company and by virtue of action taken in the ordinary course of business; he shall, however, be liable for any loss caused when he acts: I. - within the scope of his authority, with negligence or fraud; II. - contrary to the provisions of the law or of the bylaws.	Corporation Law no. 6,404
		Article 159	By a resolution passed in a general meeting, the company may bring an action for civil liability against any manager for the losses caused to the company's property. […] Paragraph 3. - Any shareholder may bring the action if proceedings are not instituted by the company within three months from the date that the resolution was approved by the general meeting. Paragraph 4. - Should the general meeting decide not to institute proceedings, they may be instituted by shareholders representing at least five percent of the capital. […] Paragraph 7. - The action permitted under this article shall not preclude any action available to any shareholder or third party directly harmed by the acts of the manager.	

Preemptive right to new issues	1	**SUMMARY**	As a general rule, neither the bylaws nor a resolution by a meeting of shareholders can deprive a shareholder of the preemptive right in the primary subscription of shares. Nevertheless, the bylaws of a public company that authorize capital increases may provide for the issue of shares, convertible debentures, or subscription warrants, without any preemptive right (or with a reduced term of exercise) provided that the securities are placed (i) by sale on a stock exchange or by public subscription; or (ii) by an exchange for shares in a public offer to acquire control. The Instruction CVM nº 400, enacted in December 29, 2003, established a new and updated regulation applicable to the public distribution of securities within primary and secondary securities markets. Some of its provisions refer to the details and procedures to be followed by a listed company related to shareholders' preemptive rights.	
		Article 109	Neither the bylaws nor a general meeting may deprive a shareholder of the right: […] IV - of first refusal in the subscription of shares, participation certificates convertible into shares, debentures convertible into shares and subscription warrants, without prejudice of what is set forth in articles 171 and 172.	Corporation Law no. 6,404

		Article 171	Right of First Refusal The shareholders shall have a right of first refusal in the subscription of an increase in capital in proportion to the number of shares they own. Paragraph 1. The following rules shall apply where the capital is divided into different types or classes of shares and the increase is made by the issue of more than one type or class: a) in the case of an increase of the number of shares of all existing types and classes in the same proportion, each shareholder shall have a right of first refusal to shares of the same type or class as those he owns; b) if the shares issued are of existing types or classes but the respective proportions in the capital are altered, the right of first refusal shall be offered in respect of the shares to the holders of the same types or classes, and the offer may only be extended to the holders of another type or class if the former shares are insufficient to assure the shareholders the same proportion in the increase as they had in the capital before the increase; (c) should shares of a new type or class be issued, each shareholder shall have a right of first refusal to all types and classes of shares created by the increase, in proportion to the number of shares he owns. Paragraph 2. If an increase is made by the capitalization of credits or a subscription in assets, the shareholders are assured to have the right of first refusal and, as the case may be, any sum paid by them shall be delivered to the owner of the credit to be capitalized or of the property to be incorporated. Paragraph 3. The shareholders shall have a right of first refusal to subscribe to issues of convertible debentures, subscription bonuses and convertible founders' shares which are to be sold by the corporation; but the conversion of such securities into shares or the granting or exercising of an option to purchase shares, shall not give rise to any right of first refusal. Paragraph 4. The bylaws or a general meeting shall establish a period of not less than thirty days within which a right of first refusal may be exercised. Paragraph 5. Where shares are held on usufruct or trust, if the right of first refusal has not been exercised by the shareholder ten days prior to the end of the period, it may be exercised by the usufruct beneficiary or trustee. Paragraph 6. A shareholder may assign his right of first refusal. Paragraph 7. In a publicly held corporation, whichever body is responsible for the decision to issue securities by private subscription shall also decide what course of action should be followed if any of the securities are not underwritten, and may: (a) direct their sale on a stock exchange, for the benefit of the corporation; or (b) if the bulletin or subscription list so indicates, allot them, in proportion to the amounts underwritten among the shareholders who have requested a reservation of any remainder in the subscription offer or list; any balance shall be sold on a stock exchange, as provided for in the preceding item. Paragraph 8. In a private corporation, the allotment shall be as provided in paragraph 7 (b) and any balance, may be underwritten by third parties in accordance with the criteria established by the general meeting or by the administrative bodies.	Corporation Law no. 6,404

% of share capital to call an ESM	5%	**SUMMARY**	According to article 123 items (c) and (d), at least five percent of share capital owners are needed to call any kind of shareholders' meeting, provided, however, that any shareholder may also have the right to make such call, whenever the company's executives fail to do so, for a period longer than 60 days, in those cases set forth in the law or in the company's by-laws (item b of Article 123).	
		Article 123	Subject to the bylaws, general meetings shall be called by the board of directors, if any, or by the company's officers. Sole Paragraph. A general meeting may also be called: (a) […] (b) in accordance with the law or the bylaws, whenever the officers delay the call for more than sixty days, by any shareholder; (c) whenever the corporation directors or officers, as the case may be, do not, within eight days, comply with their justifiable request that a meeting be called, indicating the matters to be discussed, by shareholders representing at least five per cent of the capital. (Text as determined by Law no. 9.457 of May 5, 1997) (d) whenever the corporation directors or officers, as the case may be, do not, within eight days, comply with the request that a meeting be called in order to ask for the installation of the fiscal board , by shareholders representing at least five per cent of the voting capital, or five per cent of nonvoting shareholders. (Text added by Law no. 9.457 of May 5, 1997)	Corporation Law no. 6,404
Mandatory dividend	25%/50%	**SUMMARY**	According to Article 202 of the Corporation Law shareholders are entitled to receive as compulsory dividend, in each fiscal year, a portion of the profits as may be stated in the bylaws (not less than 25%) or, if the bylaws are silent in this regard, 50% of the net profits of the fiscal year, reduced or increased by the amount allocated to the legal reserve and contingency reserves. A few companies that existed prior to the introduction of the 25% minimum in the Corporation Law, in 1976, might have stipulated a lower percentage of dividend distribution in their bylaws (lower than 25%). These companies are still entitled to distribute such lesser amount until they decide to change their bylaws on this point. According to the Corporation Law and subject to opposition by any shareholder present, a general meeting of a public company may resolve to distribute dividends in an amount inferior to the compulsory dividends or to retain the entire net profit exclusively for purposes of raising funds by means of nonconvertible debentures. Also, a company is permitted to suspend the compulsory dividend in respect of common shares and preferred shares not entitled to a fixed or minimum dividend if its board of directors and Fiscal Board report to the shareholders meeting that the distribution would be incompatible with the financial circumstances of such company and the shareholders ratify this conclusion at the shareholders meeting.	Corporation Law no. 6,404

		Article 202	Compulsory Dividend In every fiscal year, the shareholders shall be entitled to receive as a compulsory dividend the portion of the profits as may be stated in the bylaws or, in the event the latter is silent in this regard, the amount to be determined as follows: (Text as determined by Law n. 10.303, of October 31, 2001) I – half of the net profit as increased or reduced by: (Text as determined by Law n. 10.303, of October 31, 2001) (a) the amount intended to form the legal reserve (Article 193); and (Text added by Law n. 10.303, of October 31, 2001) (b) the amount intended to form the reserves for contingencies (Article 195) and any written-off amounts of the same reserves formed in previous fiscal years; (Text as determined by Law n. 10.303, of October 31, 2001) II – the payment of dividends provided for in item I may be limited to the amount of net profits realized during the fiscal year, provided that the difference is recorded as a reserve for realizable profits (Article 197); (Text as determined by Law n. 10.303, of October 31, 2001) III – profits registered in the reserve of realizable profits, when realized and not absorbed by losses in subsequent fiscal years, shall be added to the first dividend declared after their realization. (Text as determined by Law n. 10.303, of October 31, 2001) Paragraph 1. If regulated in detail and providing minority stockholders are not subject to the will of the agencies of administration or the majority, the statute will be able to establish the share as percentage of the profit or the capital stock, or to fix other criteria to determine it. Paragraph 2. Whenever the bylaws are silent and the general meeting resolves to amend the bylaws in order to regulate compulsory dividends, the compulsory dividend may not be less than twenty-five per cent (25%) of the net profit as adjusted in accordance with item I of this Article. (Text as determined by Law n. 10.303, of October 31, 2001) Paragraph 3. As long as no present shareholder opposes it, a general meeting may resolve to distribute a dividend which is less than the compulsory dividend prescribed by this Section or to retain the entire net profit, in the following corporations: (Text as determined by Law n. 10.303, of October 31, 2001) I – publicly-held corporations which have gone public exclusively to raise capital by issuing non-convertible debentures; (Text added by Law n. 1.303, of October 31, 2001) II – closely-held corporations, except those controlled by publicly-held corporations not in compliance with the provisions of item I. (Text added by Law n. 1.303, of October 31, 2001)	

			Paragraph 4. - The dividend prescribed by this article shall not be compulsory in a fiscal year in which the board of directors notify the general meeting that its payment would be incompatible with the financial standing of the corporation. The fiscal board, if in operation, shall deliver an opinion on any such notice and, in a public corporation, the officers shall forward to the Comissão de Valores Mobiliários, within five days of holding the general meeting, an explanation justifying the notice. Paragraph 5. - The profits that are not distributed by virtue of paragraph 4 shall be attributed to a special reserve and, if not absorbed by losses in subsequent fiscal years, shall be paid as dividends as soon as the financial situation of the corporation permits such payment.	

Brazil – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The Brazilian government enacted Law No. 11,101 of 9 February 2005, introducing new rules on bankruptcy and debt recovery procedures, together with Supplementary Law 118/05 that includes corresponding changes to the Brazilian Tax Code. The New Bankruptcy Law gives priority to the recovery of companies rather than to bankruptcy, which may maintain job positions and safeguard the interests of creditors by preserving the company, its social-interest role and encouraging economic activity, provided that the continuation of the debtor's operations is financially viable. The previous bankruptcy law -- Decree-Law No. 7,661 of 21 June 1945 -- had two forms of dealing with troubled business: the concordata (a debt-restructuring mechanism before a court to avoid bankruptcy) that attempted to advance the recovery of the company, and the falência (bankruptcy) that provided rules for liquidation of the company and the payment of its creditors. The concordata gave temporary safeguards to companies, but had proven to be an inflexible method for restructuring companies because its procedures did not cover all creditors and inhibited the negotiation between debtor and creditors. In practice, the concordata was so rigid that it usually led to the debtor's bankruptcy rather than to its recovery. The new law allows three options for insolvent companies. The concordata procedure is replaced by recuperação (reorganisation), which may be in court (judicial reorganisation) or out-of-court (extra-judicial reorganisation); the falência remains, but significantly revamped. The granting by the court of the extra-judicial restructuring does not suspend rights, lawsuits or collection procedures against the debtor; neither does it prevent the initiation of a bankruptcy procedure by creditors not included in the extra-judicial restructuring plan. However, the extra-judicial restructuring plan is binding even on the non-participating creditors if: (a) the credits of the non-participating creditors are dealt with in such plan; and (b) it is signed by creditors representing three-fifths of each class of credit treated in such plan. The judicial restructuring option would involve almost all existing credits against the debtor on the filing date (even if not matured), except that labour, labour accidents and tax claims will have a special treatment. The judicial restructuring plan must be approved under certain conditions by all creditor categories, but in no event with discrimination of creditors in the class that does not accept the plan. If the general meeting does not approve the plan, the court may still grant the restructuring subject to compliance with certain conditions (and thus binding for all creditors). During a two-year period, the court will supervise the compliance with the restructuring plan. In case of breach, the court will declare the bankruptcy of the company. In the bankruptcy procedures provided by the new law, a party may only file for debtor's bankruptcy if the credit against the debtor is at least equivalent to forty Brazilian minimum wages. The new law intends to expedite the bankruptcy procedures, if the debtor's situation is irreversible,	

			so as to avoid depreciation of tangible and intangible assets. The process thus aims at maximising the value generated by the sale of the assets, which allows the payment of labour and tax debts, in addition to other credits. Indeed, the new bankruptcy law allows the sale of whole companies, still in operation and with active employees, instead of just the assets of the bankrupt company, as provided by the previous law. In addition, selling the business (or a part of it) can take place without the buyer having to assume tax and social security liabilities (during recuperação), and labour obligations too if under bankruptcy proceedings. The new rules apply to debt recovery procedures and bankruptcies initiated after 9 June 2005; the date the law enters into effect. Despite the significant innovations introduced in the New Bankruptcy Law, some legal analysts have highlighted a number of important shortcomings. For example, public and private financial institutions, government-owned entities (empresas públicas) and mixed-capital companies (sociedades de economia mista), among others, fall outside its remit. As a result, a significant proportion of the Brazilian economy would still be subject to insolvency proceedings that are arguably unfit for the complexity of the entities they intend to regulate. Moreover, claims denominated in a foreign currency are to be converted into local currency in the bankruptcy proceeding, thus exposing creditors to significant potential devaluation risk.	
Restrictions on going into reorganisation	1	**SUMMARY**	In the extra-judicial restructuring, the debtor that has been in business for at least two years, among other requirements, may present a recovery proposal to its creditors, which will be taken to court for ratification. In fact, to agree on this plan, the debtor may select and invite creditors (one sole class or several classes or group of creditors of the same nature and subject to similar payment conditions), including: (i) the matured and not matured debts, except for labour and tax obligations; and (ii) any amount in discussion in a collection procedure. Under the judicial restructuring option, the debtor, under certain conditions, may request the restructuring to court and, if granted, the company will have 180 days in which the statute of limitations for all lawsuits and collection procedures will be suspended (except for tax collections which will also be given more flexibility through a special procedure). Any creditor is able to present to the court its objection to the plan of judicial recovery in the next thirty days from the publication of the relation of creditors. Having an objection of any creditor to the plan of judicial recovery, the judge will call for a general assembly of creditors to deliberate on the recovery plan. If rejected, the judge will decree the bankruptcy of the debtor. (Article 56-§ 4)	

		Article 48	Poderá requerer recuperação judicial o devedor que, no momento do pedido, exerça regularmente suas atividades há mais de 2 (dois) anos e que atenda aos seguintes requisitos, cumulativamente: I - não ser falido e, se o foi, estejam declaradas extintas, por sentença transitada em julgado, as responsabilidades daí decorrentes; II - não ter, há menos de 5 (cinco) anos, obtido concessão de recuperação judicial; III - não ter, há menos de 8 (oito) anos, obtido concessão de recuperação judicial com base no plano especial de que trata a Seção V deste Capítulo; IV - não ter sido condenado ou não ter, como administrador ou sócio controlador, pessoa condenada por qualquer dos crimes previstos nesta Lei. Parágrafo único. A recuperação judicial também poderá ser requerida pelo cônjuge sobrevivente, herdeiros do devedor, inventariante ou sócio remanescente.	Law No. 11,101
		Article 55	Qualquer credor poderá manifestar ao juiz sua objeção ao plano de recuperação judicial no prazo de 30 (trinta) dias contado da publicação da relação de credores de que trata o § 2 do art. 7 desta Lei. Parágrafo único. Caso, na data da publicação da relação de que trata o caput deste artigo, não tenha sido publicado o aviso previsto no art. 53, parágrafo único, desta Lei, contar-se-á da publicação deste o prazo para as objeções.	
		Article 56	Havendo objeção de qualquer credor ao plano de recuperação judicial, o juiz convocará a assembléia-geral de credores para deliberar sobre o plano de recuperação. § 1 A data designada para a realização da assembléia-geral não excederá 150 (cento e cinqüenta) dias contados do deferimento do processamento da recuperação judicial. § 2 A assembléia-geral que aprovar o plano de recuperação judicial poderá indicar os membros do Comitê de Credores, na forma do art. 26 desta Lei, se já não estiver constituído. § 3 O plano de recuperação judicial poderá sofrer alterações na assembléia-geral, desde que haja expressa concordância do devedor e em termos que não impliquem diminuição dos direitos exclusivamente dos credores ausentes. § 4 Rejeitado o plano de recuperação pela assembléia-geral de credores, o juiz decretará a falência do devedor.	

No automatic stay on assets	1	**SUMMARY**	The granting by the court of the extra-judicial restructuring does not suspend rights, lawsuits or collection procedures against the debtor; neither does it prevent the initiation of a bankruptcy procedure by creditors not included in the extra-judicial restructuring plan. Under the judicial restructuring option, the debtor, under certain conditions, may request the restructuring to court and, if granted, the company will have 180 days in which the statute of limitations for all lawsuits and collection procedures will be suspended (except for tax collections which will also be given more flexibility through a special procedure). After said period, creditors will recover the right to initiate or to continue its actions and executions, independently of the judicial resolution.	
		Article 6	A decretação da falência ou o deferimento do processamento da recuperação judicial suspende o curso da prescrição e de todas as ações e execuções em face do devedor, inclusive aquelas dos credores particulares do sócio solidário. § 1 Terá prosseguimento no juízo no qual estiver se processando a ação que demandar quantia ilíquida. § 2 É permitido pleitear, perante o administrador judicial, habilitação, exclusão ou modificação de créditos derivados da relação de trabalho, mas as ações de natureza trabalhista, inclusive as impugnações a que se refere o art. 8º desta Lei, serão processadas perante a justiça especializada até a apuração do respectivo crédito, que será inscrito no quadro-geral de credores pelo valor determinado em sentença. § 3 O juiz competente para as ações referidas nos §§ 1 e 2 deste artigo poderá determinar a reserva da importância que estimar devida na recuperação judicial ou na falência, e, uma vez reconhecido líquido o direito, será o crédito incluído na classe própria. § 4 Na recuperação judicial, a suspensão de que trata o caput deste artigo em hipótese nenhuma excederá o prazo improrrogável de 180 (cento e oitenta) dias contado do deferimento do processamento da recuperação, restabelecendo-se, após o decurso do prazo, o direito dos credores de iniciar ou continuar suas ações e execuções, independentemente de pronunciamento judicial. § 5 Aplica-se o disposto no § 2 deste artigo à recuperação judicial durante o período de suspensão de que trata o § 4 deste artigo, mas, após o fim da suspensão, as execuções trabalhistas poderão ser normalmente concluídas, ainda que o crédito já esteja inscrito no quadro-geral de credores. § 6 Independentemente da verificação periódica perante os cartórios de distribuição, as ações que venham a ser propostas contra o devedor deverão ser comunicadas ao juízo da falência ou da recuperação judicial: I - pelo juiz competente, quando do recebimento da petição inicial; II - pelo devedor, imediatamente após a citação. § 7 As execuções de natureza fiscal não são suspensas pelo deferimento da recuperação judicial, ressalvada a concessão de parcelamento nos termos do Código Tributário Nacional e da legislação ordinária específica. § 8 A distribuição do pedido de falência ou de recuperação judicial previne a jurisdição para qualquer outro pedido de recuperação judicial ou de falência, relativo ao mesmo devedor.	Law No. 11,101

Secured creditors first (paid)	0	**SUMMARY**	The new law amends the rules relating to priority of creditors in bankruptcy proceeding: first are labour accidents and labour claims of up to 150 minimum wages per creditor, followed by secured creditors (debts secured by real property and up to the value of the asset itself), then overdue tax claims and other debts. Any proceeds left after these payments will be distributed to the shareholders, partners or quotaholders of the company, as the case may be, in the proportion of each one's stake in the social capital.	Law No. 11,101
		Article 83	Art. 83. A classificação dos créditos na falência obedece à seguinte ordem: I - os créditos derivados da legislação do trabalho, limitados a 150 (cento e cinqüenta) salários-mínimos por credor, e os decorrentes de acidentes de trabalho; II - créditos com garantia real até o limite do valor do bem gravado; III - créditos tributários, independentemente da sua natureza e tempo de constituição, excetuadas as multas tributárias; IV - créditos com privilégio especial, a saber: (a) os previstos no art. 964 da Lei nº 10.406, de 10 de janeiro de 2002; (b) os assim definidos em outras leis civis e comerciais, salvo disposição contrária desta Lei; (c) aqueles a cujos titulares a lei confira o direito de retenção sobre a coisa dada em garantia; V - créditos com privilégio geral, a saber: (a) os previstos no art. 965 da Lei nº 10.406, de 10 de janeiro de 2002; (b) os previstos no parágrafo único do art. 67 desta Lei; (c) os assim definidos em outras leis civis e comerciais, salvo disposição contrária desta Lei; VI - créditos quirografários, a saber: (a) aqueles não previstos nos demais incisos deste artigo; (b) os saldos dos créditos não cobertos pelo produto da alienação dos bens vinculados ao seu pagamento; (c) os saldos dos créditos derivados da legislação do trabalho que excederem o limite estabelecido no inciso I do caput deste artigo; VII - as multas contratuais e as penas pecuniárias por infração das leis penais ou administrativas, inclusive as multas tributárias; VIII - créditos subordinados […]	

		Article 149	Realizadas as restituições, pagos os créditos extraconcursais, na forma do art. 84 desta Lei, e consolidado o quadro-geral de credores, as importâncias recebidas com a realização do ativo serão destinadas ao pagamento dos credores, atendendo à classificação prevista no art. 83 desta Lei, respeitados os demais dispositivos desta Lei e as decisões judiciais que determinam reserva de importâncias. § 1 Havendo reserva de importâncias, os valores a ela relativos ficarão depositados até o julgamento definitivo do crédito e, no caso de não ser este finalmente reconhecido, no todo ou em parte, os recursos depositados serão objeto de rateio suplementar entre os credores remanescentes. § 2 Os credores que não procederem, no prazo fixado pelo juiz, ao levantamento dos valores que lhes couberam em rateio serão intimados a fazê-lo no prazo de 60 (sessenta) dias, após o qual os recursos serão objeto de rateio suplementar entre os credores remanescentes.	
Management replaced	0	**SUMMARY**	Under extra-judicial reorganisation, the interference of public authorities will be limited to the verification of the legality of the procedure as well as of the agreement. The court will examine eventual challenges by dissatisfied creditors and, in due course, will ratify the agreement leaving the management of the company to the parties involved, without direct interference of the court. The court will only be heard again in case of breach of the agreement. Under judicial reorganisation, the debtor must show to the court the restructuring feasibility plan, together with a financial and economic valuation report of the company's situation. The plan must be supported by evidence regarding the use of several mechanisms aimed at solving the financial troubles of the debtor, including the impact of a change in its management, corporate, and asset structures. Management is not replaced during judicial reorganisation. During the procedures, the debtor or its administrators will continue to engage in its business, under the supervision of the Creditors' Committee and a judicial trustee. Management would be replaced if found in breach of those conditions established in Article 64. In any case, after judicial recovery is approved, the debtor will not be able to alienate or to dispose of goods or rights from its permanent assets, except for those recognised by the judge, after approval from the Creditors' Committee, related to the plan of judicial recovery.	

		Article 64	Durante o procedimento de recuperação judicial, o devedor ou seus administradores serão mantidos na condução da atividade empresarial, sob fiscalização do Comitê, se houver, e do administrador judicial, salvo se qualquer deles: I - houver sido condenado em sentença penal transitada em julgado por crime cometido em recuperação judicial ou falência anteriores ou por crime contra o patrimônio, a economia popular ou a ordem econômica previstos na legislação vigente; II - houver indícios veementes de ter cometido crime previsto nesta Lei; III - houver agido com dolo, simulação ou fraude contra os interesses de seus credores; IV - houver praticado qualquer das seguintes condutas: (a) efetuar gastos pessoais manifestamente excessivos em relação a sua situação patrimonial; (b) efetuar despesas injustificáveis por sua natureza ou vulto, em relação ao capital ou gênero do negócio, ao movimento das operações e a outras circunstâncias análogas; (c) descapitalizar injustificadamente a empresa ou realizar operações prejudiciais ao seu funcionamento regular; (d) simular ou omitir créditos ao apresentar a relação de que trata o inciso III do caput do art. 51 desta Lei, sem relevante razão de direito ou amparo de decisão judicial; V - negar-se a prestar informações solicitadas pelo administrador judicial ou pelos demais membros do Comitê; VI - tiver seu afastamento previsto no plano de recuperação judicial. Parágrafo único. Verificada qualquer das hipóteses do caput deste artigo, o juiz destituirá o administrador, que será substituído na forma prevista nos atos constitutivos do devedor ou do plano de recuperação judicial.	Law No. 11,101
Legal reserve	20%	**SUMMARY**	The Corporation Law does not impose the dissolution of the firm on the absence of a minimum percentage of share capital. Nevertheless, the Legal Reserve, which all sociedades anonimas must maintain, serves the objective of preserving the integrity of the share capital.	
		Article 193	Legal Reserve Before any other use, five per cent of the net profit shall be allocated to form the Legal Reserve, which may not exceed twenty per cent of the capital. Paragraph 1. - The corporation may refrain from allocating resources to the legal reserve during any fiscal year in which the balance of such reserve, taken together with the amount of the capital reserves mentioned in paragraph 1 of article 182, exceeds thirty per cent of the capital. Paragraph 2. - The legal reserve is intended to guarantee the capital and may only be utilized to offset losses or to increase the capital.	Corporation Law no. 6,404

Chile – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The corporate legal framework of Chile is governed by the Company Law 18046 of October 1981 (Ley sobre Sociedades Anónimas 18046 de 1981). This law was last amended in May 2002. Even though the original draft of the Capital Markets II Law (Ley de Mercados de Capitales II), would have introduced several modifications to law 18046, several changes introduced during the parliamentary debate have diminished the real impact of this future legislation over the Company Law. Almost three years since first introduced, the bill is now expected to be approved in 2007. The current proposal focuses on three areas: 1) entrepreneurship, innovation, venture capital and small and mid-sized enterprises; 2) the country's capital markets; 3) ongoing development of the country's financial markets.	
One share-one vote	1	**SUMMARY**	Article 20 allows for two types of shares, ordinary and preferred. Article 21 states that each share will have the right to one vote per share.	
		Article 20	Las acciones pueden ser ordinarias o preferidas. Las preferencias deberán constar en los estatutos sociales y en los títulos de las acciones deberá hacerse referencia a ellas. No podrá estipularse preferencias sin precisar el plazo de su vigencia. Tampoco podrá estipularse preferencias que consistan en el otorgamiento de dividendos que no provengan de utilidades del ejercicio o de utilidades retenidas y de sus respectivas revalorizaciones. Los estatutos de las sociedades anónimas que hagan oferta pública de sus acciones podrán contener preferencias o privilegios que otorguen a una serie de acciones preeminencia en el control de la sociedad, por un plazo máximo de cinco años, pudiendo prorrogarse por acuerdo de la junta extraordinaria de accionistas.	Law 18046

		Article 21	Cada accionista dispondrá de un voto por cada acción que posea o represente. Sin embargo, los estatutos podrán contemplar series de acciones preferentes sin derecho a voto o con derecho a voto limitado. No podrán establecerse series de acciones con derecho a voto múltiple. Las acciones sin derecho a voto o las con derecho a voto limitado, en aquellas materias que carezcan igualmente de derecho a voto, no se computarán para el cálculo de los quórum de sesión o de votación en las juntas de accionistas. En los casos en que existan series de acciones preferentes sin derecho a voto o con derecho a voto limitado, tales acciones adquirirán pleno derecho a voto cuando la sociedad no haya cumplido con las preferencias otorgadas en favor de éstas, y conservarán tal derecho mientras no se haya dado total cumplimiento a dichas preferencias. En caso de duda, en las sociedades anónimas abiertas, la adquisición del pleno derecho a voto será resuelta administrativamente por la Superintendencia con audiencia del reclamante y de la sociedad y en las cerradas, por el árbitro o la justicia ordinaria en su caso, en procedimiento sumario de única instancia y sin ulterior recurso.	
Proxy by mail allowed	0	**SUMMARY**	Article 64 describes the right of a shareholder to assign a proxy to represent him at the shareholder meetings, but there is no reference to proxy by mail. Even though the original Capital Markets II Law proposal included electronic proxy, this provision has recently been eliminated from the draft bill.	
		Article 64	Los accionistas podrán hacerse representar en las juntas por medio de otra persona, aunque ésta no sea accionista. La representación deberá conferirse por escrito, por el total de las acciones de las cuales el mandante sea titular a la fecha señalada en el artículo 62 -- el cual estipula que solo pueden participar en las juntas y ejercer sus derechos de voz y voto los titulares de acciones inscritas en el Registro de Accionistas con cinco días de anticipación a aquel en que haya de celebrarse la respectiva junta. El Reglamento señalará el texto del poder para la representación de acciones en las juntas y las normas para la calificación.	Law 18046
Shares not blocked before meeting	1	**SUMMARY**	The law does not require shares to be blocked from trading either before or after a shareholders' meeting takes place.	
		Article 62	Solamente podrán participar en las juntas y ejercer sus derechos de voz y voto, los titulares de acciones inscritas en el Registro de Accionistas con cinco días de anticipación a aquel en que haya de celebrarse la respectiva junta. Los titulares de acciones sin derecho a voto, así como los directores y gerentes que no sean accionistas, podrán participar en las juntas generales con derecho a voz. Para los efectos de esta ley, se entiende por acciones sin derecho a voto aquellas que tengan este carácter por disposición legal o estatutaria.	Law 18046

		Article 68	Las acciones pertenecientes a accionistas que durante un plazo superior a 5 años no hubieren cobrado los dividendos que la sociedad hubiere distribuido, ni asistido a las juntas de accionistas que se hubieren celebrado, no serán consideradas para los efectos del quórum y de las mayorías requeridas en las juntas. Cuando haya cesado uno de los hechos mencionados, esas acciones deberán considerarse nuevamente para los fines antes señalados.	Law 18046
Cumulative voting / proportional representation	1	**SUMMARY**	Article 66 describes the right of shareholders to use the cumulative voting procedure to cast all their votes for one candidate for election to the Board of Directors.	
		Article 66	En las elecciones que se efectúen en las juntas, los accionistas podrán acumular sus votos en favor de una sola persona, o distribuirlos en la forma que estimen conveniente, y se proclamarán elegidos a los que en una misma y única votación resulten con mayor número de votos, hasta completar el número de cargos por proveer. Si existieren directores titulares y suplentes, la sola elección de un titular implicará la del suplente que se hubiere nominado previamente para aquél. Lo dispuesto en los incisos precedentes no obsta a que por acuerdo unánime de los accionistas presentes con derecho a voto, se omita la votación y se proceda a elegir por aclamación.	Law 18046
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Article 69 describes the right of any dissident shareholder to step out of the company and to receive full payment for the shares he owns. It also states the reasons behind this retirement, such as the transformation of the society, its merger, etc. Article 71, states that the Board of Directors has the right to call an Extraordinary Shareholders Meeting (ESM) in order to confirm or revoke the decision that caused the dissident shareholder to withdraw from the company. If, in the ESM, the decision that provoked the shareholder to exit is withdrawn, then his/her right to retire is revoked.	
		Article 69	La aprobación por la junta de accionistas de alguna de las materias que se indican más adelante, concederá al accionista disidente el derecho a retirarse de la sociedad, previo pago por aquélla del valor de sus acciones. Considérese accionista disidente a aquel que en la respectiva junta se hubiere opuesto al acuerdo que da derecho a retiro, o que, no habiendo concurrido a la junta, manifieste su disidencia por escrito a la sociedad, dentro del plazo establecido en el artículo siguiente. El precio a pagar por la sociedad al accionista disidente que haga uso del derecho a retiro será, en las sociedades anónimas cerradas, el valor de libros de la acción; y en las abiertas, el valor de mercado de la misma, determinados en la forma que fije el Reglamento.	Law 18046

			Los acuerdos que dan origen al derecho a retiro de la sociedad son: 1) La transformación de la sociedad; 2) La fusión de la sociedad; 3) La enajenación del activo y pasivo de la sociedad o del total de su activo; 4) La creación de preferencias para una serie de acciones o el aumento o la reducción de las ya existentes. En este caso, tendrán derecho a retiro únicamente los accionistas disidentes de la o las series afectadas; 5) El saneamiento de la nulidad causada por vicios formales de que adolezca la constitución de la sociedad o alguna modificación de sus estatutos que diere este derecho; 6) Los demás casos que establezcan los estatutos.	
		Article 69 ter	Si como consecuencia de cualquier adquisición, una persona alcanza o supera los dos tercios de las acciones emitidas con derecho a voto de una sociedad que haga oferta pública de sus acciones, tendrá el plazo de 30 días, contado desde la fecha de aquélla, para realizar una oferta por las acciones restantes, en los términos establecidos en el Título XXV de la ley Nº 18.045. Dicha oferta deberá hacerse a un precio no inferior al que correspondería en caso de existir derecho a retiro. De no efectuarse la oferta en el plazo señalado, nacerá para el resto de los accionistas el derecho a retiro en los términos del artículo 69. En este caso, se tomará como fecha de referencia para calcular el valor a pagar, el día siguiente al vencimiento del plazo indicado en el inciso primero. No regirá la obligación establecida en el inciso primero, cuando se alcance el porcentaje ahí referido como consecuencia de una reducción de pleno derecho del capital, por no haber sido totalmente suscrito y pagado un aumento dentro del plazo legal. […]	
		Article 71	El directorio podrá convocar a una nueva junta que deberá celebrarse a más tardar dentro de los treinta días siguientes al vencimiento del plazo señalado en el artículo 70, a fin de que ésta reconsidere o ratifique los acuerdos que motivaron el ejercicio del derecho a retiro. Si en dicha junta se revocaren los mencionados acuerdos, caducará el referido derecho a retiro.	
Preemptive right to new issues	1	**SUMMARY**	Article 25 states the preemptive right of shareholders to buy new issues of stock. Article 24 establishes some restrictions that could be applied to the right to buy new issues, but only limited to 10% of the amount.	
		Article 25	Las opciones para suscribir acciones de aumento de capital de la sociedad y de debentures convertibles en acciones de la sociedad emisora, o de cualquiera otros valores que confieran derechos futuros sobre estas acciones, deberán ser ofrecidas, a lo menos por una vez, preferentemente a los accionistas a prorrata de las acciones que posean. En la misma proporción serán distribuidas las acciones liberadas emitidas por la sociedad. Este derecho es esencialmente renunciable y transferible. El derecho de preferencia de que trata este artículo deberá ejercerse o transferirse dentro del plazo de 30 días contado desde que se publique la opción en la forma y condiciones que determine el Reglamento.	Law 18046

		Article 24	[…] En los aumentos de capital de una sociedad anónima abierta podrá contemplarse que hasta un 10% de su monto se destine a planes de compensación de sus propios trabajadores o de sus filiales. En esta parte, los accionistas no gozarán de la opción preferente a que se refiere el artículo 25. Sin embargo, si los accionistas no ejercieren su derecho preferente a suscribir en todo o parte las restantes acciones, el saldo no suscrito podrá igualmente ser destinado a planes de compensación de dichos trabajadores, si así lo hubiere acordado la junta de accionistas. El plazo para suscribir y pagar las acciones por parte de los trabajadores dentro de un plan de compensación podrá extenderse hasta por cinco años, contado desde el acuerdo de la junta de accionistas respectiva.	Law 18046
% of share capital to call an ESM	10%	**SUMMARY**	According to article 58 (3), shareholders should own at least 10% of outstanding shares -- with voting rights -- in order to call for an extraordinary shareholders meeting	
		Article 58	Las juntas serán convocadas por el directorio de la sociedad. El directorio deberá convocar: [...] 3) A junta ordinaria o extraordinaria, según sea el caso, cuando así lo soliciten accionistas que representen, a lo menos, el 10% de las acciones emitidas con derecho a voto, expresando en la solicitud los asuntos a tratar en la junta; [...] [...] Las juntas convocadas en virtud de la solicitud de accionistas o de la Superintendencia, deberán celebrarse dentro del plazo de 30 días a contar de la fecha de la respectiva solicitud.	Law 18046
Mandatory dividend	30%	**SUMMARY**	Article 79 states that a public company should distribute, annually, at least 30% of its net income as dividends. This principle is valid, unless the company has made a loss during that period or has accumulated losses from previous periods. Articles 81-82 set up procedures for the payment of dividends.	
		Article 79	Salvo acuerdo diferente adoptado en la junta respectiva, por la unanimidad de las acciones emitidas, las sociedades anónimas abiertas deberán distribuir anualmente como dividendo en dinero a sus accionistas, a prorrata de sus acciones o en la proporción que establezcan los estatutos si hubieren acciones preferidas, a lo menos el 30% de las utilidades líquidas de cada ejercicio. En las sociedades anónimas cerradas, se estará a lo que determine en los estatutos y si éstos nada dijeren, se les aplicará la norma precedente. En todo caso, el directorio podrá, bajo la responsabilidad personal de los directores que concurran al acuerdo respectivo, distribuir dividendos provisorios durante el ejercicio con cargo a las utilidades del mismo, siempre que no hubieren pérdidas acumuladas.	Law 18046

		Article 81	El pago de los dividendos mínimos obligatorios que corresponda de acuerdo a la ley o a los estatutos, será exigible transcurridos 30 días contados desde la fecha de la junta que aprobó la distribución de las utilidades del ejercicio. El pago de los dividendos adicionales que acordare la junta, se hará dentro del ejercicio en que se adopte el acuerdo y en la fecha que ésta determine o en la que fije el directorio, si la junta le hubiere facultado al efecto. El pago de los dividendos provisorios se hará en la fecha que determine el directorio. Los dividendos serán pagados a los accionistas inscritos en el registro respectivo el quinto día hábil anterior a las fechas establecidas para su solución.	Law 18046
		Article 82	Salvo acuerdo diferente adoptado en la junta respectiva por la unanimidad de las acciones emitidas, los dividendos deberán pagarse en dinero. Sin embargo, en las sociedades anónimas abiertas se podrá cumplir con la obligación de pagar dividendos, en lo que exceda a los mínimos obligatorios, sean éstos legales o estatutarios, otorgando opción a los accionistas para recibirlos en dinero, en acciones liberadas de la propia emisión o en acciones de sociedades anónimas abiertas de que la empresa sea titular. El dividendo opcional deberá ajustarse a condiciones de equidad, información y demás que determine el Reglamento. Sin embargo, en el silencio del accionista, se entenderá que éste opta por dinero.	Law 18046

Chile – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The winding up or liquidation law applies to companies and is contained in the bankruptcy law 18175 of 1982 (last amended in 2005). Law 20073 of November 2005 introduced amendments to the bankruptcy law related to pre-bankruptcy reorganisation agreements to prevent involuntary windups. Law 20073 added a special new section to the bankruptcy law which allows reaching extra-judicial composition agreements between debtors and creditors and introduces the figure of an 'expert facilitator' in charge of assessing the accounting, legal, economic and financial situation of the debtor. Law 18175 is complemented by law 19010 of 1990 (last amended in 1993) and by the Civil Code (Código Civil de Chile DFL-1 /2002). Restructuring is covered under the same bankruptcy law. Additionally, company law 18046 (Ley de Sociedades Anónimas 18046) provides information about the mandatory legal reserve. Law 20004 – approved by Congress in March 2005 – also amends Law 18175. The amendments introduced increase the transparency of the restructuring process of companies and strengthen the role of the Bankruptcy Superintendence. A proposed Capital Markets II Law will also introduce changes to the bankruptcy process.	
Restrictions on going into reorganisation	1	**SUMMARY**	The company and one or more of its creditors can sign -- before bankruptcy -- a 'convenio', an extrajudicial agreement, which is only binding on those who sign it. Legislation includes two types of legally binding agreement. The 'Convenio Judicial Preventivo' could be signed before the bankruptcy declaration. The 'Convenio Judicial' could be agreed during the bankruptcy proceedings. Secured creditors do not the have the right to vote in the creditors' assembly, unless they renounce their privileged status. As a result, non-secured creditors are given the opportunity to determine the viability of keeping the company as a going concern and thus to negotiate the repayment of their loans.	
		Article 169	Cualquier acuerdo extrajudicial celebrado entre el deudor, antes de su declaración de quiebra, y uno o más de sus acreedores relativo al pago de sus obligaciones o a la administración de sus bienes, sólo obliga a quienes lo suscriban, aun cuando se le denomine convenio.	Law 18175 - Ley de Quiebras (as amended in 2005)
		Article 171	El convenio judicial preventivo es aquél que el deudor propone, con anterioridad a la declaración de quiebra y en conformidad a las disposiciones de este Párrafo. Comprende todas sus obligaciones existentes a la fecha de las resoluciones a que se refieren las letras a) y b) del artículo 200, aun cuando no sean de plazo vencido, salvo las que la ley expresamente exceptúe.	

		Article 177	La tramitación de esta clase de convenio no embarazará el ejercicio de ninguna de las acciones que procedan en contra del deudor, no suspenderá los juicios pendientes, ni obstará a la realización de los bienes. Sin embargo, suspenderá el plazo de prescripción de las acciones referidas en los Párrafos 2º y 3º del Título VI desde la fecha de la resolución que lo tiene por presentado o de la resolución que ordena citar a Junta de Acreedores en el caso del artículo 177 ter. […]	
		Article 177 bis	No obstante lo dispuesto en el artículo anterior, si la proposición de convenio judicial preventivo se hubiere presentado con el apoyo de dos o más acreedores que representen más del 50% del total del pasivo, no podrá solicitarse la quiebra del deudor ni iniciarse en su contra juicios ejecutivos, ejecuciones de cualquier clase o restitución en los juicios de arrendamiento, durante los noventa días siguientes a la notificación por aviso de la resolución en que el tribunal cite a los acreedores a junta para deliberar sobre dicha proposición. Durante este período, se suspenderán los procedimientos judiciales señalados y no correrán los plazos de prescripción extintiva. […]	
		Article 177 ter	El deudor podrá solicitar al tribunal que sea competente para conocer de su quiebra, acompañando a su solicitud todos los antecedentes señalados en el artículo 42, que cite a una junta de acreedores, la que tendrá lugar dentro de 10 días contados desde la notificación por aviso de la resolución recaída en la solicitud, a fin de que ella designe a un experto facilitador. […]	
		Article 177 ter	Tendrán derecho a voto en la junta señalada en el inciso primero, los acreedores que aparezcan en el estado a que se refiere el artículo 42 N° 4, certificado, de acuerdo a la información disponible y a la cual hubieren tenido acceso de los registros del deudor, por auditores externos, independientes, e inscritos en el registro que lleva la Superintendencia de Valores y Seguros, con exclusión de los acreedores señalados en el inciso tercero del artículo 177 bis. La designación del experto facilitador se hará con el voto de uno o más de los acreedores, que representen más del 50% del total del pasivo con derecho a voto; en caso contrario, se considerará fracasada la gestión. Los acreedores hipotecarios y privilegiados no perderán sus preferencias por la circunstancia de participar y votar en esta junta, y podrán impetrar las medidas conservativas que procedan. El experto facilitador sera notificado en la forma que establece el artículo 55. […] En caso de que el experto facilitador formule una proposición de convenio, ésta deberá ser votada en junta de acreedores dentro del plazo de 15 días contado desde la notificación por aviso de la proposición.	

		Article 178	Las proposiciones de convenio judicial preventivo pueden versar sobre cualquier objeto lícito para evitar la declaración de la quiebra del deudor, salvo sobre la alteración de la cuantía de los créditos fijada para determinar el pasivo. El convenio será uno y el mismo para todos los acreedores, salvo que medie acuerdo unánime en contrario, en conformidad a lo dispuesto en el inciso siguiente. El convenio podrá contener una proposición principal y proposiciones alternativas a ella para todos los acreedores, en cuyo caso éstos deberán optar por regirse por una de ellas, dentro de diez días contados desde la fecha de la junta que lo acuerde. En él se podrá pactar que las cuestiones o diferencias que se produzcan entre el deudor y uno o más acreedores o entre éstos, con motivo del convenio y en especial de su aplicación, interpretación, cumplimiento, nulidad o declaración de incumplimiento pueda o deba ser sometida al conocimiento o resolución de un juez árbitro, como asimismo, establecer la naturaleza del arbitraje y cualquier otra materia sobre el mismo. Este pacto compromisorio será obligatorio para todos a quienes afecta el convenio.	
		Article 186	El convenio simplemente judicial es el que se propone durante el juicio de quiebra para ponerle término.	
		Article 187	El fallido o cualquiera de los acreedores podrá hacer proposiciones de convenio en cualquier estado de la quiebra. Presentadas las proposiciones de convenio, los acreedores las conocerán y se pronunciarán sobre ellas en una junta citada especialmente al efecto por aviso, con indicación expresa de si se ha reunido la mayoría exigida en el inciso segundo del artículo siguiente, para no antes de 30 días. Se aplicará a esta clase de convenio lo dispuesto en el artículo 178.	
		Artcile 190	El convenio se considerará acordado cuando cuente con el consentimiento del deudor y reúna a su favor los votos de los dos tercios o más de los acreedores concurrentes que representen tres cuartas partes del total del pasivo con derecho a voto, excluidos los créditos preferentes cuyos titulares se hayan abstenido de votar por ellos. […] La modificación del convenio deberá acordarse con el mismo procedimiento y con las mismas mayorías exigidas por el inciso primero de este artículo, excluidos los créditos cuyos títulos sean posteriores a las proposiciones primitivas del convenio aprobado que se pretende modificar, a quienes no obliga.	

		Article 191	Los acreedores preferentes respecto de bienes o del patrimonio del deudor podrán asistir a la junta y discutir las proposiciones de convenio y votar si renuncian a la preferencia de sus créditos. La circunstancia de que un acreedor vote, importa la renuncia a la preferencia. Sólo para los acreedores que hayan votado en contra, en caso del rechazo del convenio, la renuncia a la preferencia tendrá el carácter de irrevocable. La renuncia puede ser parcial, siempre que se manifieste expresamente. Si un acreedor es titular de créditos preferentes y no preferentes, se presume de derecho que vota por sus créditos no preferentes, salvo que exprese lo contrario. Si los acreedores votan por sus créditos preferentes, los montos de éstos se incluirán en el pasivo, para los efectos del cómputo a que se refiere el artículo precedente por las sumas a que hubiere alcanzado la renuncia. Los cesionarios de créditos adquiridos dentro de los últimos 30 días anteriores a la proposición, no podrán concurrir a la junta para deliberar y votar el convenio, y tampoco podrán impugnarlo ni actuar en el incidente de impugnación.	
		Article 201	Aprobado el convenio simplemente judicial, cesará el estado de quiebra y se le devolverán al deudor sus bienes y documentos, sin perjuicio de las restricciones establecidas en el convenio mismo.	
No automatic stay on assets	1	**SUMMARY**	Under a 'convenio' there is no automatic stay on assets. If, however, creditors representing more than 50% of the outstanding liabilities of the company decide to give their support to the 'Convenio Judicial', then they will only be authorised to claim access to those assets bound to deteriorate, to suffer from an imminent decrease in value, or to require extra care to preserve their integrity. Article 177 bis states that under the conditions described in article 177, there is a stay on assets under the 'Convenio Judicial Preventivo'. This stay on assets will extend for 90 days from the date on which the judge instructed creditors to reconvene for the first time in a Creditors' Assembly.	
		Article 188	La tramitación de esta clase de convenio no embaraza el ejercicio de ninguna de las acciones que procedan en contra del fallido, no suspende los procedimientos de la quiebra o juicios pendientes, ni obsta a la realización de los bienes. Sin embargo, si el convenio simplemente judicial se presentare apoyado por a lo menos el 51% del total pasivo de la quiebra, el síndico sólo podrá enajenar los bienes expuestos a un próximo deterioro o a una desvalorización inminente o los que exijan una conservación dispendiosa. El pasivo será certificado por el síndico. Se excluirán a los acreedores a que se refiere el inciso tercero del artículo 177 bis. Por el hecho de apoyar esta clase de convenio, los acreedores hipotecarios y privilegiados no perderán sus preferencias.	Law 18175 - Ley de Quiebras (as amended in 2005)

		Article 177 bis	No obstante lo dispuesto en el artículo anterior, si la proposición de convenio judicial preventivo se hubiere presentado con el apoyo de dos o más acreedores que representen más del 50% del total del pasivo, no podrá solicitarse la quiebra del deudor ni iniciarse en su contra juicios ejecutivos, ejecuciones de cualquier clase o restitución en los juicios de arrendamiento, durante los noventa días siguientes a la notificación por aviso de la resolución en que el tribunal cite a los acreedores a junta para deliberar sobre dicha proposición. Durante este período, se suspenderán los procedimientos judiciales señalados y no correrán los plazos de prescripción extintiva. […] [...]	
			Lo dispuesto en el inciso primero no se aplicará a los juicios laborales sobre obligaciones que gocen de privilegio de primera clase, excepto las que el deudor tuviere, en tal carácter, a favor de su cónyuge o de sus parientes o de los gerentes, administradores, apoderados u otras personas que hayan tenido o tengan injerencia en la administración de sus negocios. Para estos efectos se entenderá por parientes a los ascendientes y descendientes y a los colaterales hasta el cuarto grado, inclusive. Durante el período de suspensión a que se refiere este artículo, el deudor no podrá gravar ni enajenar sus bienes. Sólo podrá enajenar aquéllos expuestos a un próximo deterioro, o a una desvalorización inminente, o los que exijan una conservación dispendiosa, y podrá gravar o enajenar aquéllos cuyo gravamen o enajenación resulten estrictamente indispensables para el normal desenvolvimiento de su actividad, siempre que cuente con la autorización previa del síndico para la ejecución de dichos actos.	
Secured creditors first (paid)	0	**SUMMARY**	First Class Creditors' ('Acreedores de Primera Clase') are those who hold the highest priority for payment in the event of a liquidation (article 148). According to article 2472 of the Civil Code, this type of creditor also includes workers and family allowances -- providing that documented reasons are submitted. Articles 3 and 11 of Law 19010 are quoted because they are mentioned in article 148 of Law 18175.	
		Article 148	El síndico hará el pago de los créditos privilegiados de la primera clase que no hubieren sido objetados, en el orden de preferencia que les corresponda, tan pronto como haya fondos para ello; reservará lo necesario para el pago de los créditos de la misma clase, cuyo monto o privilegio esté en litigio, y para la atención de los gastos subsiguientes de la quiebra. Los créditos a que se refieren los números 1 y 4 del artículo 2472 del Código Civil no necesitarán de verificación, salvo los señalados en el inciso siguiente. Las costas personales del acreedor peticionario de la quiebra, gozarán de la preferencia del número 1 del artículo 2472 del Código Civil, y los gastos de la petición de la quiebra por parte del deudor gozarán de la preferencia establecida en el número 4 del artículo 2472 del Código Civil, hasta los siguientes límites: el 2% del crédito invocado si éste no excede de 10.000 unidades de fomento y el 1% en lo que exceda de dicho valor. Para estos efectos, si la quiebra es solicitada por el propio deudor, y éste invocare más de un crédito, se estará a aquél en cuyo pago hubiere cesado en primer lugar. El saldo, si lo hubiere, se considerará valista.	Law 18175 - Ley de Quiebras (as amended in 2005)

			Los créditos mencionados en el N° 5 del [artículo 2472 del Código Civil] serán pagados con cargo a los primeros fondos del fallido de que se pueda disponer, administrativamente, siempre que existan antecedentes documentarios que los justifiquen y aun antes de su verificación. Igualmente, se pagarán sin necesidad de verificación previa y en los términos establecidos en el inciso anterior, los créditos por las indemnizaciones convencionales de origen laboral hasta el límite de un equivalente a un mes de remuneración por cada año de servicio y fracción superior a seis meses, y por las indemnizaciones legales del mismo origen que sean consecuencia de la aplicación de las causales señaladas en el artículo 3 de la Ley 19.010. Las restantes indemnizaciones de origen laboral así como la que sea consecuencia del reclamo del trabajador de conformidad a la letra b) del artículo 11 de la Ley 19.010, se pagarán con el solo mérito de sentencia judicial ejecutoriada que así lo ordene. Al efectuar los pagos preceptuados en los incisos tercero y cuarto, el síndico cuidará que el monto del saldo del activo sea suficiente para asegurar el pago de los créditos de mejor derecho. En la forma establecida en el inciso primero de este artículo se hará, en seguida, el pago de los créditos de la cuarta clase. Los créditos privilegiados de la primera clase preferirán a todo otro crédito preferente o privilegiado establecido por leyes especiales.	
			Los titulares de los créditos laborales que gocen de las preferencias de los números 5 y 8 del artículo 2472 del Código Civil podrán verificar condicionalmente sus respectivos créditos con el solo mérito de la presentación de la demanda interpuesta con anterioridad a la quiebra o con la notificación al síndico de lademanda interpuesta con posterioridad a la declaración de quiebra ante el tribunal competente, y el síndico deberá reservar fondos suficientes para el evento de que se acoja dicha demanda, sin perjuicio de los pagos administrativos que procedan. En caso de quiebra, hay objeto ilícito en la renuncia de cualquier monto de los créditos a que se refieren los números 5, 6 y 8 del artículo 2472 del Código Civil, sin perjuicio de la transacción convencional o judicial que se celebre con posterioridade la notificación de la sentencia de primera instancia del juicio laboral o previsional respectivo.	
		Article 2472	La primera clase de créditos comprende los que nacen de las causas que en seguida se enumeran: 1. Las costas judiciales que se causen en interés general de los acreedores; 2. Las expensas funerales necesarias del deudor difunto; 3. Los gastos de enfermedad del deudor; 4. Los gastos en que se incurra para poner a disposición de la masa los bienes del fallido, los gastos de administración de la quiebra, de realización del activo y los préstamos contratados por el síndico para los efectos mencionados; 5. Las remuneraciones de los trabajadores y las asignaciones familiares; 6. Las cotizaciones adeudadas a organismos de seguridad social [...] asimismo, los créditos del fisco en contra de las entidades administradoras de fondos de pensiones por los aportes que aquél hubiere efectuado [...]; 7. Los artículos necesarios de subsistencia suministrados al deudor y su familia durante los últimos tres meses; 8. Las indemnizaciones legales y convencionales de origen laboral que les correspondan a los trabajadores [...]; 9. Los créditos del fisco por los impuestos de retención y de recargo.	Civil Code

		Article 3	[...] el empleador podrá poner término al contrato de trabajo invocando como causal las necesidades de la empresa, establecimiento o servicio, tales como las derivadas de la racionalización o modernización de los mismos, bajas en la productividad, cambios en las condiciones del mercado o de la economía, que hagan necesaria la separación de uno o más trabajadores, y la falta de adecuación laboral o técnica del trabajador. En el caso de los trabajadores que tengan poder para representar al empleador, tales como gerentes, subgerentes, agentes o apoderados, siempre que, en todos estos casos, estén dotados, a lo menos, de facultades generales de administración, [...] el contrato de trabajo podrá, además, terminar por desahucio escrito del empleador, el que deberá darse con treinta días de anticipación, a lo menos, con copia a la Inspección del Trabajo respectiva. [...] Regirá también esta norma tratándose de cargos o empleos de la exclusiva confianza del empleador, cuyo carácter de tales emane de la naturaleza de los mismos. [...]	Law 19010
		Article 11	Si el contrato terminare por aplicación de la causal del inciso primero del artículo 3 de esta ley, se observarán las reglas siguientes: (a) [...] (b) Si el trabajador estima que la aplicación de esta causal es improcedente, y no ha hecho aceptación de ella del modo previsto en la letra anterior, podrá recurrir al tribunal mencionado en el artículo precedente, en los mismos términos y con el mismo objeto allí indicado. Si el Tribunal rechazare la reclamación del trabajador, éste sólo tendrá derecho a las indemnizaciones señaladas en los artículos 4, inciso cuarto, y 5, incisos primero o segundo, según corresponda, con el reajuste indicado en el artículo 15, sin intereses.	
Management replaced	0	**SUMMARY**	Article 207 states the functions of the 'interventor', a supervisor of the affairs of the company during the process of reorganisation, who is not directly responsible for running the company. Rather, under item 5 of article 207, this supervisor has the responsibility to inform creditors about any issue that has come to his attention regarding the debtor's administration of the business. In article 208 it is stipulated that the management stays. This article states that if the debtor (during the time it is under the terms of the 'convenio') is found responsible for the further deterioration of the business, then the supervisor (or 'interventor') will have the power to enforce a more strict intervention in the company affairs than those originally agreed under the terms of the 'convenio'. The supervisor also holds the authority to call off the 'convenio' if creditors representing an absolute majority of all outstanding liabilities ask him to do so.	

		Article 206	El convenio podrá estipular el nombramiento de un interventor, que podrá o no ser síndico de la nómina, y tendrá las atribuciones y deberes que el mismo le señale. Su remuneración será fijada en la forma que determine el convenio. El interventor sólo podrá ser revocado con el voto de uno o más de los acreedores que representen más del 50 % del total del pasivo con derecho a voto, con el acuerdo del deudor, y sin este acuerdo con el voto de uno o más de los acreedores que representen a lo menos los dos tercios del pasivo con derecho a voto. Sin perjuicio de lo anterior, en el convenio se podrá designar una comisión de acreedores con las atribuciones y deberes que le señale. Todas estas personas responderán de la culpa leve. Sólo los síndicos de la nómina estarán sujetos a la fiscalización de la Superintendencia.	Law 18175 - Ley de Quiebras (as amended in 2005)
		Article 207	Las atribuciones y deberes del interventor serán las siguientes, a menos que se acuerde otra cosa: 1. Imponerse de los libros, documentos y operaciones del deudor; 2. Llevar cuenta de las entradas y gastos de los negocios del deudor; 3. Visar, en su caso, los pagos a los acreedores; 4. Cuidar de que el deudor no retire para sus gastos personales y los de su familia otras sumas que las autorizadas en el convenio; 5. Rendir trimestralmente la cuenta de su actuación y la de los negocios del deudor, y presentar las observaciones que le merezca la administración de este último. Esta cuenta será enviada por correo a cada uno de los acreedores; 6. Pedir al tribunal ante el cual se tramitó el convenio que cite a junta de acreedores, siempre que lo crea conveniente o cuando se lo pida alguno de ellos para tratar asuntos de interés común. Todos los acuerdos de la junta deberán ser adoptados por la mayoría del pasivo del convenio, con derecho a voto. 7. Impetrar las medidas precautorias que sean necesarias para resguardar los intereses de los acreedores, sin perjuicio de los acuerdos que éstos puedan adoptar. Estas solicitudes se tramitarán como incidente, y 8. Representar judicial y extrajudicialmente a los acreedores para llevar a efecto los acuerdos que tomen en forma legal.	
		Article 208	Si se hubiere agravado el mal estado de los negocios del deudor en forma que haga temer un perjuicio para los acreedores, podrá éste ser sometido a una intervención más estricta que la pactada, o ser sometido a una intervención si ésta no se hubiere estipulado, o bien declararse incumplido el convenio, a solicitud de acreedores que representen la mayoría absoluta del pasivo del convenio, con derecho a voto. La solicitud dirigida a obtener una intervención o que ésta sea más estricta se tramitará como incidente. Conocerá de las acciones que se ejerciten en conformidad al N° 7 del artículo anterior y al inciso precedente, el tribunal ante el cual se tramitó el convenio, salvo que se haya celebrado el pacto compromisorio a que se refiere el artículo 178, en cuyo caso conocerá el Tribunal que corresponda de acuerdo a éste.	

Legal reserve	0	**SUMMARY**	There is no reference in the law to a mandatory legal reserve. Article 80 makes reference to a procedure for cases when there is an excess of net income even after the distribution of dividends. In such case, the remaining amount can be capitalised, either through the issuance of new shares, or through an increment in value of the existing shares. However, this procedure is possible only by modifying the articles of incorporation of the company.	
		Article 80	La parte de las utilidades que no sea destinada por la junta a dividendos pagaderos durante el ejercicio, ya sea como dividendos mínimos obligatorios o como dividendos adicionales, podrá en cualquier tiempo ser capitalizada, previa reforma de estatutos, por medio de la emisión de acciones liberadas o por el aumento del valor nominal de las acciones, o ser destinada al pago de dividendos eventuales en ejercicios futuros. [...]	Law 18046

China – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Shareholder rights in China are provided by the Company Law 1993. The latest amendment to Company Law was on October 27, 2005, which will take effect on January 1, 2006. Two types of shares are traded in Chinese exchanges - A shares and B shares. A shares are for domestic investors only. Prior to 1 December 2002, only B shares were available to foreign investors. B Shares are foreign-invested shares issued domestically by Chinese companies and are also known as Renminbi Special Shares. B Shares are issued in the form of registered shares and carry a face value denominated in Renminbi. B Shares are subscribed and traded in foreign currencies and are listed and traded in securities exchanges inside China. On December 1 2002, China launched a qualified foreign institutional investor (QFII) scheme that allows foreign investors to invest in domestic A shares and bond markets for the first time. According to China Securities Regulator (CSRC), 'qualified investors' include overseas fund management companies, insurance companies, securities houses and other asset managers.	www.china.org.cn
One share-one vote	1	**SUMMARY**	The Chinese Company Law entitles shareholders to have one share per one vote.	
		Article 43	Shareholders exert voting rights in proportion to their capital contribution. But this may not apply if Articles of the Company stipulate otherwise. [Note: this article is in the Chapter of *Setting and Organization of Limited Liability Company*]	Company Law 1993, amended 2005, w.e.f. Jan. 1, 2006
		Article 104	Shareholders attending a shareholders' general meeting shall have the right to one vote for each share held. However, shares held by the company itself do not have the right to vote. A resolution of the shareholders' general meeting must be passed by more than one-half of the voting rights held by the shareholders present at the meeting. Resolutions on the amendment to Articles of the Company, increase and decrease of the registered capital, merger, division or dissolution of the company adopted by the shareholders' general meeting must require more than two-thirds of the voting rights held by the shareholders present at the meeting.	
		Article 127	The shares shall be issued on the basis of the principle of being fair and impartial [sic]. Shares of the same class must have the same rights.	
Proxy by mail allowed	0	**SUMMARY**	Laws in China provide two methods for shareholders' voting at the shareholders' meetings: one is for shareholders to be present at the shareholders meetings in person and vote themselves; the other is for shareholders to appoint a proxy to attend and vote on their behalf. Proxy voting by mail is not allowed. However, CSRC regulation provided an internet method for shareholders' voting.	

		Article107	A shareholder may entrust a proxy to attend the shareholders' general meeting on his behalf. The proxy shall present the shareholders' power of attorney to the company and exercise voting rights within the scope of authorization.	Company Law 1993, amended 2005, w. e. f. Jan. 1, 2006
		Article 1, clause 2	A listed company shall take positive measures to increase the proportion of public shareholders in participating in the general shareholders meetings. A listed company is encouraged to provide, apart from the onsite meeting, an online voting platform for its shareholders. When a listed company votes for an event listed in the above Provision 1, an online voting platform should be available to its shareholders. The listed company shall observe the relevant regulations when an online voting takes place.	Provisions on Strengthening Protection of Rights & Interests of Public Shareholders, w. e. f. Dec. 7, 2004
Shares not blocked before meeting	1	**SUMMARY**	There is a restriction on bearer shares, but not on registered shares. However, note that at present there are no bearer shares in Chinese listed companies. There is no requirement in the law that holders of registered shares should deposit their shares before the meeting.	
		Article 103	Holders of bearer shares attending the shareholders' general meeting shall deposit their share certificates with the company for the period from five days prior to the holding of the meeting until the end of the meeting.	Company Law 1993, amended 2005, w. e. f. Jan. 1, 2006
Cumulative voting / proportional representation	0	**SUMMARY**	The law does not automatically provide for cumulative voting or proportional representation. However, amendment to Company Law in Oct. 2005 add statutory requirement for companies to allow cumulative voting or proportional representation if incorporated into the Articles of the Company.	
		Article 106	The shareholders' meeting, in the course of the election of directors or supervisors, could carry out a cumulative voting system in accordance with Articles of the Company or resolutions of shareholders' meeting. A cumulative voting system provided hereby refers to the system that during the electing procedure of directors or supervisors by the shareholders' meeting, each voting share has the same number of voting rights with the number of directors or supervisors to be elected. Voting rights could be used in aggregation.	Company Law 1993, amended 2005, w. e. f. Jan. 1, 2006
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	According to the Company Law, shareholders have the right to challenge the decisions or actions of the management in the people's courts.	
		Article 22	If the convening or voting procedure of shareholders' meeting or board of directors' meeting has violated the law, administrative decrees or Articles of the Company, or the resolution of the meeting have violated Articles of the Company, shareholders have the rights to sue within sixty days since the day the resolutions are made to the people's court for repeal.	Company Law 1993, amended 2005, w. e. f. Jan. 1, 2006

		Article 152	If the directors or senior managers have situations provided in Article 150 of this law, shareholders of a limited liability company, or shareholders of a joint-stock company limited separately or aggregately holding more than one percent of all the company shares over 180 days consecutively, could demand in paper the board of supervisors, or supervisors of limited liability company without board of supervisors, to sue at the people's court. If the supervisors have situations provided in Article 150 of this law, the above mentioned shareholders could demand in paper the board of directors or executive directors of limited liability company without board of directors, to sue at the people's court. If the board of supervisors, supervisors of limited liability company without board of supervisors, board of directors or executive directors refuse to sue after receiving the written demand from above mentioned shareholders, or they did not sue within thirty days after receiving the written demand, or the company interest might suffer irrevocable damage without prompt lawsuit due to urgent situation, above mentioned shareholders could directly sue to the people's court in their own name for protection of the company's interest. If other people impinged on the company's legitimate rights and interests, and caused loss to the company, above mentioned shareholders could sue to the people's court in accordance with the previous two clauses.	
		Article 153	If the directors or senior managers have violated the law, administrative decrees or Articles of the Company, encroached upon the rights of shareholders, shareholders have the rights to sue at the people's court.	
Preemptive right to new issues	1	**SUMMARY**	The Law requires that existing shareholders be given preemptive rights. The company has the right to decide if the existing shareholders should have the first opportunity to buy new issues of stock.	
		Article 35	Shareholders shall draw dividends in proportion to their capital contributions. Where a company increases capital, the existing shareholders may have priority in subscription for new shares in proportion to their capital contribution. However, this may not apply when all shareholders stipulate otherwise.	Company Law 1993, amended 2005, w. e. f. Jan. 1, 2006
		Article 72	Shareholders could transfer shares to people other than existing shareholders after obtaining agreement of more than half of other existing shareholders. Under the same condition, the existing shareholders may have priority in purchasing the shares agreed to transfer by shareholders.	
		Article 73	People's court shall notify the company and all its shareholders when transferring shareholders' share according to compulsive enforcement procedure provided by law. Under the same condition, other existing shareholders may have the priority in purchasing. This priority in purchasing will be deemed to be abandoned if not been exerted within twenty days after the day of notification by people's court.	
% of share capital to call an ESM	10%	**SUMMARY**	Shareholders holding ten percent or more of the company's shares can request to convene an extraordinary shareholders' meeting.	

		Article 41	If the board of directors or executive directors cannot or do not perform the duty of convening shareholders' meeting, the board of supervisors or supervisors of limited liability company without board of supervisors shall perform the duty; if the board of supervisors or supervisors do not convene and preside the meeting, shareholders representing more than ten percent of the company's voting rights could convene and preside by themselves.	Company Law 1993, amended 2005, w. e. f. Jan. 1, 2006
		Article 114	An interim shareholders' general meeting shall be convened within two months if any of the following situations occurs: (1) [...] (2) [...] (3) if shareholders separately or aggregately holding ten percent or more of the company's shares request to convene a shareholders meeting;	
Mandatory dividend	0	**SUMMARY**	In China, a company has no legal duty to distribute a fraction of its net income as dividends among ordinary shareholders. Companies decide in accordance with their financial condition whether to distribute dividends (including stock dividends and cash dividends) through their shareholders' meeting. CSRC regulation requires company to carry out positive methods for allocation of profits.	

China – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The new Enterprise Bankruptcy Law of the PRC was adopted on 27 August 2006 and will take effect on 1 June 2007, superseding the 1986-enacted Enterprise Bankruptcy Law. The 1986 Law applied only to the bankruptcy of state-owned enterprises (SOEs), while the Bankruptcy Law provides a unified bankruptcy system for all enterprises with legal person status, covering both SOEs and privately-owned companies, including foreign investment enterprises. The key changes are as follows: - The 1986 Law allowed a creditor to file a bankruptcy petition only when the debtor was unable to pay its debts as they fell due. The Bankruptcy Law has expanded the grounds for bankruptcy petition and has also introduced corporate reorganisation and conciliation as mechanisms to revive an insolvent company. - Under the 1986 Law, a corporate reorganisation could only be petitioned for and carried out by the government authorities. The Bankruptcy Law, however, allows either the debtor or the creditor to apply to the People's Court for reorganisation of the debtor. - The 1986 Law authorised a "liquidation committee" (consisting of government officials and debtor's management) to take control of the assets of the debtor. To address creditors' concerns about transparency and independence of the liquidation committee, the Bankruptcy Law has introduced the role of an administrator to manage the assets and operations of the debtor as well as other legal proceedings. - Unlike the 1986 Law, the Bankruptcy Law no longer gives higher priority to unpaid employee wages and social insurance premiums.	c.f. Morrison & Foerster LLP "New Law Ushers in Sweeping Changes to Bankruptcy Regime in China", 18 September 2006
Restrictions on going into reorganisation	1	**SUMMARY**	According to the Enterprise Bankruptcy Law, if a company files for reorganisation, it has to submit a draft settlement agreement (a rectification plan) within six months (or nine months with court approval) of the court's ruling for reorganisation. The plan has to be approved by a majority of the number of creditors in each voting group (Article 82), representing at least two-thirds of the total amount of confirmed claims in a class and a majority of the creditors in a class present at the creditor's meeting.	
		Article 70	A debtor or creditor may, according to the provisions of the present Law, apply directly with the people's court for rectification against the debtor. Where any creditor applies for bankrupt liquidation against its debtor, after the people's court accepts the application for bankruptcy and before the debtor is announced bankrupt, the debtor or its capital contributor whose capital contribution makes up 1/10 or more of the debtor's registered capital may apply with the people's court for rectification.	The Enterprise Bankruptcy Law, promulgated 27 August 2006; effective from 1 June 2007

		Article 79	A debtor or bankruptcy administrator may, within 6 months as of the day when the people's court approves its rectification, submit a draft of the rectification plan to the people's court and the creditors' meeting.	
		Article 81	A draft of rectification plan shall include the following contents: (1) A business plan of a debtor; (2) Classification of the creditor's right; (3) An adjustment plan of the creditor's right; (4) A repayment plan of the creditor's right; (5) Term for implementing the rectification plan; (6) Term for supervising the performance of the rectification plan; and (7) Any other plan conducive to the debtor's rectification.	
		Article 82	Where the relevant creditors who have the following creditor's rights attend the creditor's meeting to discuss a draft of rectification plan, they shall be grouped according to the following creditor's rights so as to vote a draft of rectification plan: (1) The creditor's right with guaranty on the debtor's particular assets; (2) The wages, subsidies for medical treatment ….as well as the compensation for the employees as prescribed by the relevant laws and administrative regulations; (3) The taxes as defaulted by the debtor; and (4) The common creditor's right.	
		Article 84	The people's court shall, within 30 days as of the day when a draft of rectification plan is received, hold a creditor's meeting so as to vote the draft. Where 1/2 or more of the creditors in a same voting group at the creditors' meeting agree to a draft of the rectification plan, representing 2/3 or more of the total amount of the creditor's right, it shall be deemed as an adoption of the draft of rectification plan.	
No automatic stay on assets	0	**SUMMARY**	During the bankruptcy and reorganisation processes, no creditor can enforce his rights.	
		Article 89	A rectification plan shall be implemented under the debtor's charge. When the people's court decides to approve a rectification plan, the bankruptcy administrator that has taken over the assets and business operation shall transfer the assets and business operation to the debtor.	
		Article 75	In the duration of rectification, the right to guaranty on the particular assets of a debtor shall be suspended. However, in the case of possible damage or significant depreciation of value, which may injure the guarantor's right, the guarantor may apply with the people's court for recovering the right to guaranty.	The Enterprise Bankruptcy Law, promulgated 27 August 2006; effective from 1 June 2007
Secured creditors first (paid)	1	**SUMMARY**	Secured creditors have the right to receive priority payments with respect to their securities. The only exception to this rule is provided in Article 132 which states that any entitlements of employees (e.g. salaries, pension funds, medical expenses) accrued before the promulgation of this law that remain outstanding shall be settled out of the secured assets referred to in Article 109 in priority to the entitlements of secured creditors. Article 113 of the new law provides priority for the following payments, applicable once the secured creditors have been paid off: Bankruptcy expenses, unpaid employees' salaries and basic social insurance premiums; outstanding tax, and ordinary unsecured credits.	

		Article 109	An owner of the right to guaranty on the particular assets of the bankrupt may enjoy the priority right to be repaid by means of the particular assets.	The Enterprise Bankruptcy Law, promulgated 27 August 2006; effective from 1 June 2007
		Article 113	The insolvent assets shall, after the costs for bankruptcy proceedings and community liabilities are paid in priority, be liquidated according to the following sequence: (1) The wages and subsidies for medical treatment and disability…relevant laws and administrative regulations; (2) The social insurance premiums and tax fees as defaulted by the bankrupt other than those as prescribed by the aforesaid provisions; (3) The common credit of bankruptcy	
		Article 132	After the present Law is implemented, as to the defaulted wages and subsidies for medical treatment and disability, comfort and compensatory expenses, the fundamental old-age insurance premiums and fundamental medical insurance premiums that shall have transferred into the individual accounts of employees as well as the compensation for the employees as prescribed by the relevant laws and administrative regulations, where the assets are not enough for repayment upon liquidation according to the provisions of Article 113 of the present Law, the particular assets are prescribed in Article 109 of the present Law shall be liquidated prior to the repayment for the owner of the right to guaranty on the particular assets.	
		Article 203	Banks and other creditors enjoy higher priority in impounding mortgages or other securities from insolvent debtors. If the value of the mortgage or other securities is greater than the debt, the portion in excess of the debt belongs to the assets for bankruptcy debt repayment.	Law of Civil Procedure of the People's Republic of China
		Article 204	The assets for bankruptcy debt repayment shall be used in paying the bankruptcy fees first, and the remainder shall be used in repaying debts in the following order: (1) Wages and labour insurance expenses owed by the bankruptcy enterprise to workers and staff members; (2) Unpaid taxes; and (3) Other bankruptcy creditors. If the bankruptcy assets are not enough to repay all the debts in the order mentioned above, they shall be distributed proportionally.	
Management replaced	0	**SUMMARY**	The new bankruptcy law clearly states that the management can stay pending the resolution of the reorganisation process.	
		Article 73	In the duration of rectification, a debtor may, upon filing an application and obtaining an approval from the people's court, manage its assets and business operation under the supervision of its bankruptcy administrator.	The Enterprise Bankruptcy Law, promulgated 27 August 2006; effective from 1 June 2007

		Article 74	A bankruptcy administrator that takes charge of assets and business operations may employ the business managers of the debtor to take care of the business operations.	
Legal reserve	50%	**SUMMARY**	A company is required to pay ten percent of annual profit after taxation to its statutory common reserve fund (fa ding gong ji jin) until the common reserve fund is fifty percent of the registered capital of the company (Company Law, Article 177).	
		Article 167	When a company distributes the annual after-tax profit, it shall allocate ten percent of its profits to its statutory common reserve fund. Where the accumulated amount of the statutory common reserve fund has exceeded fifty percent of the registered capital of the company, no further allocation is necessary. Where the statutory common reserve fund is insufficient to make up the company's losses of the previous fiscal year, the company shall apply its annual after-tax profits to making up its losses before allocation of such profits, in accordance with provisions of the preceding paragraph, to the statutory common reserve fund. After making its allocation to the statutory common reserve fund from the company's after-tax profits, the company may, upon resolution made by the shareholders' meeting, make allocations to the discretionary common reserve fund. For the rest after-tax profits after allocation to statutory common reserve fund and discretionary common reserve fund, limited liability company may allocate according to Article 35 of this law; joint-stock company limited may allocate in proportion to shares held by shareholders, but this may not apply if Articles of the joint-stock company limited stipulate otherwise.	Company Law 1993, amended 2005, w. e. f. Jan. 1, 2006
			If shareholders' meeting or board meeting violate the preceding clauses, allocate profit to shareholders before making up losses and making allocation to the statutory common reserve fund, shareholders must return to the company the profit allocated violating laws. Shares held by the company itself shall not be allocated with profit.	
		Article 169	A company's common reserve fund shall be used to make up the company's losses, to expand the production and operation of the company or to increase the capital of the company by means of conversion. But the statutory common reserve fund shall not be used to make up losses. When the statutory common reserve fund is converted into its capital, the remaining amount of the statutory common reserve fund shall not be less than twenty-five percent of the registered capital.	

Colombia – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The main law governing the securities market in Colombia is the Commercial Code; Código de Comercio de Colombia/1971 (Last Modified in 1997). Law 222/1995 upgrades Book II of the 'Código de Comercio' and presents a new regime for reorganisation proceedings. It was last amended in 2000. Law 964 of 2005 made requirements for listed companies much more stringent in terms of the professionalisation of boards, the requirement for independent committees and independent auditors. The objective was to seek better corporate governance. The law however did not affect any of the factors measured in this report.	
One share -one vote	1	**SUMMARY**	There is no mention of the principle of one vote per share. Each share confers to its owner the right to attend and to vote at the general assembly (article 379). Under the Código de Comercio, there are three types of shares, ordinary, preferential and preferred (article 381 of the Código de Comercio and article 61 Law 222 / 95). Paragraph one of Article 381 states that the rights of ordinary shares are conferred under article 379. However, article 381 of the Código de Comercio status prohibits multiple votes and (implicitly) non-voting ordinary shares.	
		Article 379	Cada acción conferirá a su propietario los siguientes derechos: 1. El de participar en las deliberaciones de la asamblea general de accionistas y votar en ella.	Código de Comercio
		Article 381	1. Las acciones podrán ser ordinarias o privilegiadas. Las primeras conferirán a sus titulares los derechos esenciales consagrados en el artículo 379; En ningún caso podrán otorgarse privilegios que consistan en voto múltiple, o que priven de sus derechos de modo permanente a los propietarios de acciones comunes.	
		Article 61	SOCIEDADES QUE PUEDEN EMITIRLAS. Las sociedades por acciones podrán emitir acciones con dividendo preferencial y sin derecho a voto, las cuales tendrán el mismo valor nominal de las acciones ordinarias y no podrán representar más del cincuenta por ciento del capital suscrito. La emisión se hará cuando así lo decida la asamblea general de accionistas.	Law 222 of 1995
Proxy by mail allowed	0	**SUMMARY**	Article 184 (Código de Comercio, modified by Law 22 of 1995, art. 18) gives the shareholder the right to appoint a proxy to represent him in a shareholders meeting. Article 20 refers to a special circumstance in which decisions taken by the shareholders meeting or the board of directors requires that ALL members cast their vote in writing. However, this is not the spirit of 'proxy by mail', an idea that encompasses the right of any member who is unable or unwilling to be physically present at the meeting, to cast his vote through the mail.	

		Article 184	Todo socio podrá hacerse representar en las reuniones de la junta de socios o asamblea mediante poder otorgado por escrito, en el que se indique el nombre del apoderado, la persona en quien éste puede sustituirlo, si es del caso, la fecha o época de la reunión o reuniones para las que se confiere y los demás requisitos que se señalen en los estatutos.	Código de Comercio
		Article 20	Otro mecanismo para la toma de decisiones. Serán válidas las decisiones del máximo órgano social o de la junta directiva cuando por escrito, todos los socios o miembros expresen el sentido de su voto. En este evento la mayoría respectiva se computará sobre el total de las partes de interés, cuotas o acciones en circulación o de los miembros de la junta directiva, según el caso. Si los socios o miembros hubieren expresado su voto en documentos separados, éstos deberán recibirse en un término máximo de un mes, contado a partir de la primera comunicación recibida. El representante legal informará a los socios o miembros de junta el sentido de la decisión, dentro de los cinco días siguientes a la recepción de los documentos en los que se exprese el voto.	Law 222 of 1995
Shares not blocked before meeting	1	**SUMMARY**	There is no mention in the law of shares being blocked from trading during the days before or after a general meeting. Only the Superintendencia can block the trading of shares (in listed companies). This is done in a couple of cases: once the documentation for a Public Offer (OPA, Oferta Publica de Adquisición) has been submitted to the Superintendencia and before it is publicly announced (to avoid insider trading with this information), or before a Merger. Publicly listed firms cannot block the trading of their shares; this is stated in the Commercial Code.	
		Article 407	Artículo 407 Código de Comercio: Principio de libre negociabilidad de acciones inscritas en bolsa. Si las acciones fueren nominativas y los estatutos estipularen el derecho de preferencia en la negociación, se indicarán los plazos y condiciones dentro de los cuales la sociedad o los accionistas podrán ejercerlo; pero el precio y la forma de pago de las acciones serán fijados en cada caso por los interesados y, si éstos no se pusieren de acuerdo, por peritos designados por las partes o, en su defecto, por el respectivo superintendente. No surtirá ningún efecto la estipulación que contraviniere la presente norma. Mientras la sociedad tenga inscritas sus acciones en bolsas de valores, se tendrá por no escrita la cláusula que consagre cualquier restricción a la libre negociabilidad de las acciones.	Código de Comercio / Law 222 of 1995

Cumulative voting / proportional representation	0	**SUMMARY**	There is no mention of either cumulative voting or of proportional representation in the law. Rather, article 436 states that directors are elected through a method of voting known as 'Electoral Quotient' ('Cociente Electoral'). Article 197 explains how this method of election works: candidates need to belong to a list. The 'Electoral Quotient' is determined by dividing the total number of valid cast votes by the number of seats to the Board of Directors that need to be renewed. Each list will be allotted a number of seats to this Board depending on the number of times that the 'Quotient' fits into the number of cast votes belonging to members of that list. If there are still seats to be assigned, then the party with the largest 'residue' will be able to choose another of its candidates. If there is a draw in residues, then the candidate will be chosen by lottery. Through this method of voting, majorities are given absolute priority to choose their own candidates. According to Article 39 Law 964 of 2005, listed companies may be able to adopt a voting system, different to the electoral quotient, to elect member of the board of directors. The alternative voting system will be valid only if by using it the number of directors is higher than that obtained through the electoral quotient system, thus benefiting minority shareholders. However, no alternative mechanism have been developed by the government to date.	
		Article 436	Elección de los principales y suplentes de la junta directiva- periodo-remoción. Los principales y los suplentes de la junta serán elegidos por la asamblea general, para períodos determinados y por cuociente electoral, sin perjuicio de que puedan ser reelegidos o removidos libremente por la misma asamblea.	Código de Comercio
		Article 197	Elección de junta o comisión-cuociente electoral. Siempre que en las sociedades se trate de elegir a dos o más personas para integrar una misma junta, comisión o cuerpo colegiado, se aplicará el sistema de cuociente electoral. Este se determinará dividiendo el número total de los votos válidos emitidos por el de las personas que hayan de elegirse. El escrutinio se comenzará por la lista que hubiere obtenido mayor número de votos y así en orden descendente. De cada lista se declararán elegidos tanto nombres cuantas veces quepa el cuociente en el número de votos emitidos por la misma, y si quedaren puestos por proveer, éstos corresponderán a los residuos más altos, escrutándolos en el mismo orden descendente. En caso de empate de los residuos decidirá la suerte.	

		Article 39	Mecanismos de elección de miembros de junta directiva diferentes al cuociente electoral. Las sociedades inscritas podrán adoptar en sus estatutos alguno de los sistemas de votación diferentes del cuociente electoral que determine el Gobierno Nacional en ejercicio de la facultad prevista en el inciso 3° del presente artículo, para la elección de uno, algunos o todos los miembros de la junta directiva. Los mecanismos a que se refiere el presente artículo serán válidos siempre que con su aplicación los accionistas minoritarios aumenten el número de miembros de junta directiva que podrían elegir si se aplicara el sistema previsto en el artículo 197 del Código de Comercio. El Gobierno Nacional establecerá y regulará los sistemas de votación que podrán ser adoptados por las sociedades inscritas conforme a lo dispuesto en el presente artículo. Parágrafo. Lo dispuesto en el presente artículo no será aplicable a las entidades sujetas a la inspección y vigilancia de la Superintendencia Bancaria.	Law 964 of 2005
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Shareholders have the right to withdraw if a transformation, merger imposes greater responsibilities on them or if their rights would be negatively affected by such decision (Article 12). If the dissenting shareholder exercises his right to retire, other shareholders will then have the right to purchase those shares belonging to him. When there are not enough interested buyers, the company will be required to repurchase his remaining shares but only if there are enough company funds available, either from its net earnings or from a special reserve constituted for this purpose.	

		Article 12	Ejercicio del derecho de retiro. Cuando la transformación, fusión o escisión impongan a los socios una mayor responsabilidad o impliquen una desmejora de sus derechos patrimoniales, los socios ausentes o disidentes tendrán derecho a retirarse de la sociedad. En las sociedades por acciones también procederá el ejercicio de este derecho en los casos de cancelación voluntaria de la inscripción en el registro nacional de valores o en bolsa de valores. Par.: Para efectos de los dispuesto en el presente artículo se entenderá que existe desmejora de los derechos patrimoniales de los socios, entre otros, en los siguientes casos: Cuando disminuya el porcentaje de participación del socio en el capital de la sociedad Cuando se disminuya al valor patrimonial de la acción, cuota o parte de intereses o se reduzca el valor nominal de la acción o cuota, siempre que en este caso se produzca una disminución de capital. Cuando se limite o disminuya la negociabilidad de la acción. Para efectos de lo dispuesto en el presente artículo se entenderá que existe desmejora de los derechos patrimoniales de los socios, entre otros, en los siguientes casos: 1. Cuando se disminuya el porcentaje de participación del socio en el capital de la sociedad. 2. Cuando se disminuya al valor patrimonial de la acción, cuota o parte de interés o se reduzca el valor nominal de la acción o cuota, siempre que en este caso se produzca una disminución de capital. 3. Cuando se limite o disminuya la negociabilidad de la acción.	Law 222 of 1995
		Article 15	Opción de compra. Dentro de los cinco días siguientes a la notificación del retiro, la sociedad ofrecerá las acciones, cuotas o partes de interés a los demás socios para que éstos las adquieran dentro de los quince días siguientes, a prorrata de su participación en el capital social. Cuando los socios no adquieran la totalidad de las acciones, cuotas o partes de interés, la sociedad, dentro de los cinco días siguientes, las readquirirá siempre que existan utilidades líquidas o reservas constituidas para el efecto.	Law 222 of 1995
		Article 40	Protección de accionistas. Cuando un número plural de accionistas que represente, cuando menos, el cinco por ciento (5%) de las acciones suscritas presente propuestas a las juntas directivas de las sociedades inscritas, dichos órganos deberán considerarlas y responderlas por escrito a quienes las hayan formulado, indicando claramente las razones que motivaron las decisiones. En todo caso tales propuestas no podrán tener por objeto temas relacionados con secretos industriales o información estratégica para el desarrollo de la compañía. El Gobierno Nacional regulará la materia.	Law 964 of 2005

		Article 141	PROTECCION DE LOS ACCIONISTAS MINORITARIOS. Cualquier número de accionistas de una sociedad que participe en el mercado público de valores que represente una cantidad de acciones no superior al diez por ciento (10%) de las acciones en circulación y que no tenga representación dentro de la administración de una sociedad, podrá acudir ante la Superintendencia de Valores cuando considere que sus derechos hayan sido lesionados directa o indirectamente por las decisiones de la Asamblea General de Accionistas o de la Junta Directiva o representantes legales de la sociedad. PARAGRAFO. No obstante lo establecido en el presente artículo, la protección de los derechos de los accionistas minoritarios de una sociedad corresponderá en primer término a los representantes legales y miembros de Junta Directiva de la sociedad cuando la decisión sea tomada por la Asamblea General de Accionistas, o a éstos cuando la decisión sea tomada por el representante legal o los miembros de Junta Directiva de la misma.	Law 446 of 1998
Preemptive right to new issues	1	**SUMMARY**	Article 388 protects the preemptive right of shareholders to purchase new shares. This right may be waived either by the company bylaws, or by general consent from the shareholders meeting.	
		Article 388	Los accionistas tendrán derecho a suscribir preferencialmente en toda nueva emisión de acciones, una cantidad proporcional a las que posean en la fecha en que se apruebe el reglamento. [...] Por estipulación estatutaria o por voluntad de la asamblea, podrá decidirse que las acciones se coloquen sin sujeción al derecho de preferencia, pero de esta facultad no se hará uso sin que ante la superintendencia se haya acreditado el cumplimiento del reglamento.	Código de Comercio
		Article 420	La asamblea general de accionistas ejercerá las funciones siguientes [...] 5. Disponer que determinada emisión de acciones ordinarias sea colocada sin sujeción al derecho de preferencia, para lo cual se requerirá voto favorable de no menos del 70% de las acciones presentes en la reunión; [...]	Código de Comercio
% of share capital to call an ESM	20%	**SUMMARY**	According to Article 423 of the Código de Comercio, shareholders can call an extraordinary shareholders meeting if they own at least twenty percent of outstanding shares.	
		Article 423	Las reuniones extraordinarias de la asamblea se efectuarán cuando lo exijan las necesidades imprevistas o urgentes de la compañía, por convocación de la junta directiva, del representante legal o del revisor fiscal. El superintendente podrá ordenar la convocatoria de la asamblea a reuniones extraordinarias o hacerla, directamente, en los siguientes casos: [...] 3. Por solicitud del número plural de accionistas determinado en los estatutos y, a falta de esta fijación, por el que represente no menos de la quinta parte de las acciones suscritas. [...]	Código de Comercio

		Article 3	Requisitos respecto del gobierno de los emisores. […] 8. Mecanismos específicos que permitan a los accionistas minoritarios o a sus representantes, obtener la convocatoria de la asamblea general de accionistas cuando quiera que existan elementos de juicio que razonablemente conduzcan a pensar que dicha asamblea es necesaria para garantizar sus derechos, o para proporcionarles información de la que no dispongan. […]	Res. 271 of 2001
Mandatory dividend	50%	**SUMMARY**	Article 155 states that the minimum dividend should be agreed at the shareholders general assembly (78%). If no agreement can be reached, then the minimum percentage of net income to be distributed should be fifty percent. Article 454 states that when the legal reserve is more than one hundred percent of the subscribed capital, the percentage of net income to be distributed as dividend should be increased to seventy percent.	
		Article 155	Modificado. Ley 222 de 1995, Art. 240. Mayoría para la distribución de utilidades. Salvo que en los estatutos se fijare una mayoría decisoria superior, la distribución de utilidades la aprobará la asamblea o junta de socios con el voto favorable de un número plural de socios que representen, cuando menos, el 78% de las acciones, cuotas o partes de interés representadas en la reunión. Cuando no se obtenga la mayoría prevista en el inciso anterior, deberá distribuirse por los menos el 50% de las utilidades líquidas o del saldo de las mismas, si tuviere que enjugar pérdidas de ejercicios anteriores.	Código de Comercio
		Article 454	REPARTO DEL 70% DE LAS UTILIDADES Si la suma de la reserva legal, estatutaria u ocasionales excediere del ciento por ciento del capital suscrito, el porcentaje obligatorio de utilidades líquidas que deberá repartir la sociedad conforme al artículo 155, se elevará al 70%	
		Article 455	FORMA Y ÉPOCA DEL PAGO DE LOS DIVIDENDOS: Hechas las reservas a que se refieren los artículos anteriores. se distribuirá el remanente entre los accionistas. El pago del dividendo se hará en dinero en efectivo, en las épocas que acuerde la asamblea general al decretarlo y a quien tenga la calidad de accionista al tiempo de hacerse exigible cada pago. No obstante, podrá pagarse el dividendo en forma de acciones liberadas de la misma sociedad, si así lo dispone la asamblea con el voto del ochenta (80%) por ciento de las acciones representadas. A falta de esta mayoría sólo podrán entregarse tales acciones a título de dividendo a los accionistas que así lo acepten. Par. Adicionado Ley 222 de 1995, art. 33: En todo caso, cuando se configure una situación de control en los términos previstos en la ley, sólo podrá pagarse el dividendo en acciones o cuotas liberadas de la misma sociedad, a los socios que así lo acepten.	Código de Comercio

		Article 379	DERECHOS DEL ACCIONISTA Cada acción conferirá a su propietario los siguientes derechos: [...] 2. El de recibir una parte proporcional de los beneficios sociales establecidos por los balances de fin de ejercicio, con sujeción a lo dispuesto en la ley o en los estatutos [...]	

Colombia – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Liquidation legislation is contained in Law 222 dated 1995. Some of the clauses related to supervision were modified by Decree 4350 dated 2006. More importantly, Section II (Articles 89 to 225) of Law 222 will be replaced by Bill 154 (this is the number of the bill approved by the House of Representatives in December 2006. In the Senate the text approved was called Bill 207 of 2005). Bill 154 establishes an insolvency regime for companies. This bill will take effect six months after promulgation, so possibly in the second half of 2007. As this will imply a significant change in legislation affecting creditor rights, relevant articles of Bill 154 are already included (in italics) below. The text of Bill 154 (Ley del Regimen de Insolvencia Empresarial) is available (in Spanish only) at: www.supersociedades.gov.co/. Corporate rescue, i.e. restructuring, is covered under Law 550 dated 1999, which will also largely be replaced by Bill 154. Law 550 was designed as a temporary law, and Bill 154 aims to make many of the key the provisions of Law 550 permanent. The Colombian Commercial Code (Código de Comercio de Colombia) also provides information about the mandatory legal reserve.	

Restrictions on going into reorganisation	1	**SUMMARY**	There is an ambiguity in Law 550 about the right of creditors to give their approval to a reorganisation agreement. The Law gives creditors the right to reject a reorganisation agreement; however, it is possible for shareholders to work in conjunction with both workers and friendly financial institutions and thus limit other creditors' right to stop the reorganisation proceedings from taking place. Article 29 states that for a reorganisation agreement to be considered valid, it needs to be agreed by the votes of a plural majority of creditors, whose members should represent the internal or the external creditors, or both, and whose total votes should amount to at least the absolute majority of total cast valid votes. There are five types of creditors: Internal Creditors (a) Shareholders External Creditors (b) Workers and pensioners (c) Public institutions and social security institutions (d) Financial institutions (e) Other external creditors. Absolute majority: Should be comprised of at least three of the five classes of creditors. In cases where only three classes of creditors exist, the absolute majority should be made up of the votes of at least two of those three classes. In cases where only two classes of creditors exist, the absolute majority should be made up of the votes from both of those classes of creditors. In general, if any external creditor class, or if different classes of creditors who belong to a single owner are in a position to cast votes that amount to an absolute majority, then for the reorganisation decision to be valid, it should also receive the support of the votes of any other class of creditor whose valid votes should amount to at least twenty-five percent of the total valid cast votes.	
			Bill 154, Article 31 provides similar voting criteria for creditors to validate a reorganisation agreement. Article 32 provides additional voting requirements in certain circumstances involving internal creditors or certain types of external creditors. Article 33 provides for specific agreement by creditors in the case of a reduction in capital.	

		Article 29	Celebración de los acuerdos: Los acuerdos de reestructuración se celebrarán con el voto favorable de un número plural de acreedores internos o externos que representen por lo menos la mayoría absoluta de los votos admisibles. Dicha mayoría deberá conformarse con votos provenientes de por lo menos tres (3) de las clases de acreedores previstas en el presente artículo. En caso de que sólo existan y concurran tres (3) clases de acreedores, la mayoría deberá conformarse con votos provenientes de acreedores pertenecientes a dos (2) de las clases de acreedores existentes, siempre y cuando se obtenga la mayoría absoluta de votos admisibles; y de existir sólo dos clases de acreedores, la mayoría exigida por la ley deberá conformarse con votos provenientes de ambas clase de acreedores, con sujeción, en todo caso, a lo dispuesto en el siguiente inciso. Cuando un solo acreedor externo de una misma clase, o varios acreedores externos de una o varias clases de acreedores, pertenecientes a una misma organización empresarial declarada o no como grupo para efectos de la ley comercial, emitan votos en un mismo sentido que equivalgan a la mayoría absoluta o más de los votos admisibles, para la aprobación o improbación correspondiente se requerirá, además, del voto emitido en el mismo sentido por un número plural de acreedores de cualquier clase o clases que sea igual o superior al veinticinco por ciento (25%) de los votos admisibles. Para efectos del presente artículo, se entenderá que existen las siguientes cinco (5) clases de acreedores: (a) Los acreedores internos; (b) Los trabajadores y pensionados; (c) Las entidades públicas y las instituciones de seguridad social; (d) Las instituciones financieras y demás entidades sujetas a la inspección y vigilancia de la Superintendencia Bancaria de carácter privado, mixto o público, y (e) Los demás acreedores externos [...]	Law 550 of 1999

		Article 31	***Término para celebrar el acuerdo de reorganización.*** [...] *Dentro del plazo indicado para celebrar el acuerdo, el promotor con fundamento en el plan de reorganización de la empresa y el flujo de caja elaborado para atender el pago de las obligaciones, deberá presentar ante el juez del concurso, según sea el caso, un acuerdo de reorganización debidamente aprobado por el voto favorable de un número plural de acreedores que representen, por lo menos, la mayoría absoluta de los votos admitidos. Dicha mayoría deberá, adicionalmente, conformarse de acuerdo con las siguientes reglas:* *1. Existen cinco (5) clases de acreedores, compuestas respectivamente por:* *a) Los titulares de acreencias laborales;* *b) Las entidades públicas y las instituciones de seguridad social;* *c) Las instituciones financieras nacionales y demás entidades sujetas a la inspección y vigilancia de la Superintendencia Financiera de Colombia de carácter privado, mixto o público; y las instituciones financieras extranjeras;* *d) Acreedores internos, y* *e) Los demás acreedores externos.* *2. Deben obtener votos favorables provenientes de por lo menos de tres (3) clases de acreedores.* *3. En caso de que sólo existan tres (3) clases de acreedores, la mayoría deberá conformarse con votos favorables provenientes de acreedores pertenecientes a dos (2) de ellas.* *4. De existir sólo dos (2) clases de acreedores, la mayoría deberá conformarse con votos favorables provenientes de ambas clases de acreedores.* [...]	Bill 154 of 2006
		Article 32	***Mayoría especial en el caso de las organizaciones empresariales y acreedores internos.*** *Además de la mayoría exigida por el artículo anterior para la aprobación del acuerdo, cuando los acreedores internos o cuando uno o varios acreedores, pertenecientes a una misma organización o grupo empresarial emitan votos en un mismo sentido que equivalgan a la mayoría absoluta o más de los votos admisibles, la aprobación requerirá, además, del voto emitido en el mismo sentido por un número plural de acreedores de cualquier clase o clases que sea igual o superior al veinticinco por ciento (25%) de los votos restantes admitidos.* [...]	Bill 154 of 2006

		Article 33	*Mayoría especial para las rebajas al capital.* *Sin perjuicio de las mayorías establecidas en el artículo precedente, las prórrogas, plazos de gracia, quitas y condonaciones estipulados en el acuerdo, no podrán implicar que el pago de las acreencias objeto de reorganización sea inferior al valor del capital de las mismas, a menos que tales estipulaciones:* *1. Sean aprobadas con el voto favorable de un número plural de acreedores que equivalga a no menos del sesenta por ciento (60%) de votos admisibles de los acreedores externos, de la clase cuyas acreencias serán afectadas y sin participación del voto de los acreedores internos; o* *2. Cuenten con el consentimiento individual y expreso del respectivo acreedor, en el caso de no contar con la mayoría prevista en el numeral anterior.*	Bill 154 of 2006

No automatic stay on assets	0	**SUMMARY**	Creditors are blocked from having access to their securities for a period of four months from the moment that the 'promotor' or supervisor assigned by the court officially establishes the beginning of the reorganisation proceedings. According to Law 550, Article 14, this effectively happens once the 'promotor' establishes the creditor's right to cast their vote in the reorganisation proceedings. The secured creditor's rights to access his secured asset are also limited in cases where the owner of the collateralised asset is a natural person who can show proof that the asset under consideration has been his home for at least two years prior to the initiation of the reorganisation proceedings. Bill 154 does not include clauses designed to block creditors from having access to their securities once the reorganisation process has started. Article 17 of Bill 154 clarifies access to assets prior to the commencement of reorganisation proceedings; Article 43 explains the nature of access to secured assets during the reorganisation process.	
		Article 14	Efectos de la iniciación de la negociación: A partir de la fecha de iniciación de la negociación, y hasta que hayan transcurrido los cuatro (4) meses previstos en el artículo 27 de esta ley, no podrá iniciarse ningún proceso de ejecución contra el empresario y se suspenderán los que se encuentren en curso, quedando legalmente facultados el promotor y el empresario para alegar individual o conjuntamente la nulidad del proceso o pedir su suspensión al juez competente, para lo cual bastará que aporten copia del certificado de la cámara de comercio en el que conste la inscripción del aviso. [...] PAR. 1º— Dentro de los diez (10) días siguientes a la iniciación de la negociación, el acreedor del empresario que sea beneficiario de fiducias mercantiles en garantía o de cualquier clase de garantía real constituida por terceros, o que cuente con un codeudor, fiador, avalista, asegurador, emisor de carta de crédito y, en general, con cualquier clase de garante del empresario, deberá informar por escrito al promotor si opta solamente por hacer efectiva su garantía o si no prescinde de obtener del empresario el pago de la obligación caucionada. Si el acreedor guarda silencio o manifiesta que no prescinde de hacer valer su crédito contra el empresario, se estará a lo previsto en el inciso 1º del presente artículo, los créditos objeto de los procesos suspendidos quedarán sujetos a lo que se decida en el acuerdo, y en caso de iniciarse procesos en su contra, los terceros garantes y los titulares de los bienes gravados podrán interponer la excepción previa correspondiente. [...] PAR. 2º—Cuando un acreedor del empresario opte por hacer efectivas sus garantías de terceros y ejerza sus derechos de cobro frente a un codeudor solidario, fiador, avalista o cualquier otra clase de suscriptor de un título valor en el mismo grado del empresario, si dicho garante es una persona natural, el ejercicio de los derechos del acreedor se limita en los siguientes términos: a) Durante la negociación del acuerdo no podrá rematarse, adjudicarse, ni enajenarse a ningún título el inmueble que sea de propiedad exclusiva del garante o del cual éste sea comunero, siempre y cuando se trate del inmueble que el garante haya ocupado para su vivienda personal por no menos de dos años consecutivos e inmediatamente anteriores a la fecha de iniciación de la negociación del acuerdo; [...]	Law 550 of 1999

		Article 17	*Efectos de la presentación de la solicitud de admisión al proceso de reorganización con respecto al deudor.* *A partir de la fecha de presentación de la solicitud, se prohíbe a los administradores la adopción de reformas estatutarias; la constitución y ejecución de garantías o cauciones que recaigan sobre bienes propios del deudor, incluyendo fiducias mercantiles o encargos fiduciarios que tengan dicha finalidad; efectuar compensaciones, pagos, arreglos, desistimientos, allanamientos, terminaciones unilaterales o de mutuo acuerdo de procesos en curso; conciliaciones o transacciones de ninguna clase de obligaciones a su cargo; ni efectuarse enajenaciones de bienes u operaciones que no correspondan al giro ordinario de los negocios del deudor o que se lleven a cabo sin sujeción a las limitaciones estatutarias aplicables, incluyendo las fiducias mercantiles y los encargos fiduciarios que tengan esa finalidad o encomienden o faculten al fiduciario en tal sentido; salvo que exista autorización previa, expresa y precisa del juez del concurso.* *La autorización para la celebración, ejecución o modificación de cualquiera de las operaciones indicadas podrá ser solicitada por el deudor mediante escrito motivado ante el juez del concurso, según sea el caso.* *La celebración de fiducias mercantiles u otro tipo de contratos que tenga por objeto o como efecto la emisión de títulos colocados a través del mercado público de valores en Colombia, deberán obtener autorización de la autoridad competente.* *La emisión de títulos colocados a través del mercado público de valores en Colombia, a través de patrimonios autónomos o de cualquier otra manera, deberán obtener adicionalmente la autorización de la autoridad competente.* *Tratándose de la ejecución de fiducias mercantiles cuyos patrimonios autónomos estén constituidos por los bienes objeto de titularizaciones, colocadas a través del mercado público de valores, no se requerirá la autorización a que se refiere este artículo. Tampoco se requerirá en el caso de que la operación en cuestión corresponda a la ejecución de una fiducia mercantil en garantía que haga parte de la estructuración de una emisión de títulos colocados a través del mercado público de valores.* *Parágrafo 1°. Cualquier acto celebrado o ejecutado en contravención a lo dispuesto en el presente artículo dará lugar a la remoción de los administradores, quienes serán solidariamente responsables de los daños y perjuicios causados a la sociedad, a los socios y acreedores. Así mismo, se podrá imponer multas sucesivas hasta de doscientos (200) salarios mínimos mensuales legales vigentes al acreedor, al deudor y a sus administradores, según el caso, hasta tanto sea reversada la operación respectiva; así como a la postergación del pago de sus acreencias. El trámite de dichas sanciones se adelantará de conformidad con el artículo 8° de esta ley y no suspende el proceso de reorganización.* [...]	Bill 154 of 2006

		Article 43	*Conservación y exigibilidad de gravámenes y de garantías reales y fiduciarias.* *En relación con las garantías reales y los contratos de fiducia mercantil y encargos fiduciarios que incluyan entre sus finalidades las de garantía y que estén vinculadas con acuerdos de reorganización, aplicarán las siguientes reglas:* *1. Los créditos amparados por fiducias mercantiles y encargos fiduciarios se asimilan a los créditos de la segunda y tercera clase previstos en los artículos 2497 y 2499 del Código Civil, de acuerdo con la naturaleza de los bienes fideicomitidos o que formen parte del patrimonio autónomo, salvo cláusula expresamente aceptada por el respectivo acreedor que disponga otra cosa;* *2. Durante la vigencia del acuerdo queda suspendida la exigibilidad de gravámenes y garantías reales y fiduciarias, constituidas por el deudor. La posibilidad de hacer efectivas tales garantías durante dicha vigencia, o la constitución de las mismas, tendrá que pactarse en el acuerdo, con la mayoría absoluta de los votos admisibles, adicionada con el voto del beneficiario o beneficiarios respectivos;* *3. Si el acuerdo termina por incumplimiento, conforme a lo dispuesto en la presente ley, para efectos del proceso de liquidación jusdicial, queda restablecida de pleno derecho la preferencia de los gravámenes y garantías reales y fiduciarias suspendidas, a menos que el acreedor beneficiario haya consentido en un trato distinto;* *4. Si durante la ejecución del acuerdo son enajenados los bienes objeto de la garantía, el acreedor gozará de la misma prelación que le otorgaba el gravamen para que le paguen el saldo insoluto de sus créditos, hasta la concurrencia del monto por el cual haya sido enajenado el respectivo bien;* *5. La constitución, modificación o cancelación de garantías, o la suspensión o conservación de su exigibilidad derivadas del acuerdo, requerirá el voto del beneficiario respectivo y bastará la inscripción de la parte pertinente del mismo en el correspondiente registro, sin necesidad de otorgar nuevamente ningún otro documento y, salvo pacto en contrario, compartirá proporcionalmente el mismo grado de todos aquellos acreedores que concedan las mismas ventajas al deudor. Para tales efectos, las cláusulas pertinentes del acuerdo prestarán mérito ejecutivo;* *6. La estipulación de un acuerdo de reorganización que amplíe el plazo de aquellas obligaciones del deudor que cuenten con garantes personales o con cauciones reales constituidas sobre bienes distintos de los del deudor, no pone fin a la responsabilidad de los garantes ni extingue dichas cauciones reales;* *7. En caso de incumplimiento del acuerdo de reorganización, el acreedor que cuente con garantías reales o personales constituidas por terceros para amparar créditos cuyo pago haya sido contemplado en el acuerdo, podrá iniciar procesos de cobro contra los garantes del deudor o continuar los que estén en curso al momento de la celebración del acuerdo.*	Bill 154 of 2006
Secured creditors first (paid)	1	**SUMMARY**	Law 222, Article 120 states that secured creditors are given priority during the liquidation of the company. It is the responsibility of the secured creditor to make his rights known during the reorganisation procedure. Bill 154, Articles 34, 43 Article 38 specifies the consequences if the reorganisation process is not adhered to. Article 41 provides conditions under which the order of importance (prelación) of creditors can be modified. Articles 55 and 57-59 describe the prioritisation of creditors during the liquidation process.	

		Article 120	Término para hacerse parte: A partir de la providencia de admisión o convocatoria y hasta el vigésimo día siguiente al vencimiento del término de fijación del edicto, los acreedores deberán hacerse parte personalmente o por medio de apoderado presentando prueba siquiera sumaria de la existencia de su crédito. Los acreedores con garantía real conservan la preferencia y el orden de prelación para el pago de sus créditos, pero deberán hacerlos valer dentro del concordato. [...]	Law 222 of 1995
		Article 124	Acreedores extemporáneos: Los acreedores con o sin garantía real que no concurran oportunamente, no podrán participar en las audiencias y para hacer efectivos sus créditos sólo podrán perseguir los bienes que le queden al deudor una vez cumplido el concordato, ó cuando éste se incumpla, se declare terminado y se inicie el trámite de liquidación obligatoria, salvo que en audiencia preliminar o final, sean admitidos de conformidad con lo previsto en la ley.	Law 222 of 1995
		Article 34	*Contenido del acuerdo.* *Las estipulaciones del acuerdo deberán tener carácter general, en forma que no quede excluido ningún crédito reconocido o admitido, y respetarán para efectos del pago, la prelación, los privilegios y preferencias establecidas en la ley.* [....]	Bill 154 of 2006
		Article 38	*Efectos de la no presentación o falta de confirmación del acuerdo de reorganización.* *Los efectos que producirá la no presentación o no confirmación del acuerdo serán los siguientes:* [...] *3. La culminación de los contratos de tracto sucesivo, de cumplimiento diferido o de ejecución instantánea, no necesarios para la preservación de los activos, así como los contratos de fiducia mercantil o encargos fiduciarios, celebrados por el deudor en calidad de constituyente, sobre bienes propios y para amparar obligaciones propias o ajenas, salvo autorización para continuar su ejecución, impartida por el juez del proceso.* *4. La finalización de pleno derecho de los encargos fiduciarios y los contratos de fiducia mercantil celebrados por el deudor, con el fin de garantizar obligaciones propias o ajenas con sus propios bienes. El juez del proceso ordenará la cancelación de los certificados de garantía y la restitución de los bienes que conforman el patrimonio autónomo. Serán tenidas como obligaciones del fideicomitente las adquiridas por cuenta del patrimonio autónomo.* [...]	Bill 154 of 2006

		Article 41	*Prelación de créditos y ventajas* *En el acuerdo podrá modificarse la prelación de créditos, siempre que sean cumplidas las siguientes condiciones:* *1. La decisión sea adoptada con una mayoría superior al sesenta por ciento (60%) de los votos admisibles.* *2. Tenga como propósito facilitar la finalidad del acuerdo de reorganización.* *3. No degrade la clase de ningún acreedor sino que mejore la categoría de aquellos que entreguen recursos frescos o que en general adopten conductas que contribuyan a mejorar el capital de trabajo y la recuperación del deudor.* *4. No afecte la prelación de créditos pensionales, laborales, de la seguridad social, adquirentes de vivienda, sin perjuicio que un pensionado o trabajador, o cualquier otro acreedor, acepte expresamente los efectos de una cláusula del acuerdo referente a un derecho renunciable, siempre que ello conduzca a la recuperación de su crédito.* *La prelación de las obligaciones de la DIAN y demás autoridades fiscales, podrá ser compartida a prorrata con aquellos acreedores que durante el proceso hayan entregado nuevos recursos al deudor o que se comprometan a hacerlo en ejecución del acuerdo, la cual será aplicada inclusive en el evento del proceso de liquidación judicial. Para tal efecto, cada peso nuevo suministrado, dará prelación a un peso de la deuda anterior. La prelación no es aplicable por la capitalización de pasivos, ni por la mera continuación de los contratos de tracto sucesivo.* *Para el caso de nuevas capitalizaciones que generen ingreso de recursos frescos al deudor, durante el proceso y ejecución del acuerdo de reorganización, los inversionistas que realicen tales aportes de capital, además de las ventajas anteriores, al momento de su liquidación, tendrán prelación en el reembolso de su remanente frente a otros aportes y hasta por el monto de los nuevos recursos aportados.* *Los acreedores que entreguen al deudor nuevos recursos, condonen parcialmente sus obligaciones, otorguen quitas, plazos de gracia especiales, podrán obtener, como contraprestación las ventajas que en el acuerdo se otorguen a todos aquellos que concedan los mismos beneficios al deudor.* *Parágrafo 1º. En el evento de no cumplirse el acuerdo de manera tal que satisfaga las obligaciones que han renunciado a prelación o preferencia, estas recuperarán dicha prelación o preferencia cualquiera que sea la modalidad con la que concluya el proceso de insolvencia.* *Parágrafo 2º: Los créditos laborales podrán capitalizarse siempre y cuando sus titulares convengan, individual y expresamente, las condiciones, proporciones, cuantías y plazos en que se mantenga o modifique, total o parcialmente la prelación que le corresponde como acreencias privilegiadas. En caso de incumplimiento del acuerdo de reorganización los créditos laborales capitalizados recuperan la prelación de primer grado para efectos del acuerdo de adjudicación y el de liquidación judicial.*	Bill 154 of 2006
		Article 55	*Bienes excluidos.* [...] *El Gobierno Nacional reglamentará los casos en los cuales los bienes transferidos a título de fiducia mercantil con fines de garantía se excluyen de la masa de la liquidación en provecho de los beneficiarios de la fiducia.*	Bill 154 of 2006

		Article 57	*Enajenación de activos y plazo para presentar el acuerdo de adjudicación* *En un plazo de dos (2) meses contados a partir de la fecha en que quede en firme la calificación y graduación de créditos y el inventario de bienes del deudor, el liquidador procederá a enajenar los activos inventariados por un valor no inferior al del avalúo, en forma directa o acudiendo al sistema de subasta privada.* [...]	Bill 154 of 2006
		Article 58	*Reglas para la adjudicación.* *Los bienes no enajenados por el liquidador, de conformidad con lo previsto en el artículo anterior, serán adjudicados a los acreedores mediante providencia motivada, de conformidad con las siguientes reglas:* *1. La totalidad de los bienes a adjudicar, incluyendo el dinero existente y el obtenido de las enajenaciones, será repartido con sujeción a la prelación legal de créditos.* *2. Respetará la igualdad entre los acreedores, adjudicando en lo posible a todos y cada uno de la misma clase, en proporción a su respectivo crédito, cosas de la misma naturaleza y calidad.* *3. En primer lugar será repartido el dinero, enseguida los inmuebles, posteriormente los bienes muebles corporales y finalmente las cosas incorporales.* *4. Habrá de preferirse la adjudicación en bloque o en estado de unidad productiva. Si no pudiera hacerse en tal forma, los bienes serán adjudicados en forma separada, siempre con el criterio de generación de valor.* *5. La adjudicación de bienes a varios acreedores será realizada en común y proindiviso en la proporción que corresponda a cada uno.* *6. El juez del proceso de liquidación judicial hará la adjudicación aplicando criterios de semejanza, igualdad y equivalencia entre los bienes, con el propósito de obtener el resultado más equitativo posible.* *Con la adjudicación, los acreedores adquieren el dominio de los bienes, extinguiéndose las obligaciones del deudor frente a cada uno de ellos, hasta concurrencia del valor de los mismos.* *Para la transferencia del derecho de dominio de bienes sujetos a registro, bastará la inscripción de la providencia de adjudicación en el correspondiente registro, sin necesidad de otorgar ningún otro documento o paz y salvo. Dicha providencia será considerada sin cuantía para efectos de timbre, impuestos y derechos de registro, sin que al nuevo adquirente se le pueda hacer exigibles las obligaciones que pesen sobre los bienes adjudicados o adquiridos.* *Tratándose de bienes muebles, la tradición de los mismos operará por ministerio de la ley, llevada a cabo a partir del décimo (10º) día siguiente a la ejecutoria de la providencia.* *El liquidador procederá a la entrega material de los bienes muebles e inmuebles dentro de los treinta (30) días siguientes a la celebración de la adjudicación o de la expedición de la providencia de adjudicación, en el estado en que se encuentren.* *Parágrafo: Las obligaciones que se deriven para el adquirente sobre los bienes adjudicados serán las que se causen a partir de la ejecutoria de la providencia que apruebe la enajenación o adjudicación del respectivo bien*	Bill 154 of 2006

		Article 59	Pagos, adjudicaciones y rendición de cuentas. *Dentro de los cinco (5) días siguientes a la ejecutoria de la providencia de adjudicación de bienes, el acreedor destinatario que opte por no aceptar la adjudicación deberá informarlo al liquidador. Vencido este término, el liquidador, de manera inmediata, deberá informar al juez del concurso cuáles acreedores no aceptaron recibir los bienes, evento en el cual se entenderá que éstos renuncian al pago de su acreencia dentro del proceso de liquidación judicial y, en consecuencia, el juez procederá a adjudicar los bienes a los acreedores restantes, respetando el orden de prelación.* *Los bienes no recibidos se destinarán al pago de los acreedores que acepten la adjudicación hasta concurrencia del monto de sus créditos reconocidos y calificados.* *Los bienes remanentes serán adjudicados a los socios o accionistas de una sociedad a prorrata de sus aportes, para el caso de las personas jurídicas o al deudor en el caso de las personas naturales comerciantes o propietarias de una empresa. Los bienes no recibidos por los socios o accionistas o por la persona natural comerciante o que desarrolle actividades empresariales, serán adjudicados a una entidad pública de beneficencia del domicilio del deudor o, en su defecto, del lugar más cercano. Los bienes no recibidos por aquellas dentro de los diez (10) días siguientes a su adjudicación serán considerados vacantes o mostrencos según su naturaleza y recibirán el tratamiento legal respectivo.* *El liquidador, una vez ejecutadas las órdenes incluidas en el auto de adjudicación de bienes, respetando los plazos señalados en el artículo anterior, deberá presentar al juez del proceso de liquidación judicial una rendición de cuentas finales de su gestión, donde incluirá una relación pormenorizada de los pagos efectuados, acompañada de las pruebas pertinentes.* *No obstante, previa autorización del juez del concurso, y respetando la prelación y los privilegios de ley, al igual que las reglas de la adjudicación previstas en esta ley, el liquidador podrá solicitar al juez autorización para la cancelación anticipada de obligaciones a cargo del deudor y a favor de acreedores cuyo crédito haya quedado en firme.*	Bill 154 of 2006
Management replaced	0	**SUMMARY**	Article 7 makes reference to the 'promotor', a person designated to participate in the analysis and negotiation of the restructuring agreement (financial, administrative, and legal aspects among others). Article 17 refers to the right of management to continue to manage the company. There are some limitations to their role as administrators, such as having to ask for permission to modify the company bylaws or to constitute or exercise collateralised loans in favour of the company's creditors. Articles 116 and 117 of Law 222 give further reference to the rights of the old management to stay in place, at least while they comply with the rules set by the judge or by the creditors' assembly. Bill 154, Articles 5, 14 and 17 (for the latter of these three, see ‘’No automatic stay on assets’ section above) provide for the removal of the management if it does not comply with the process for establishing a reorganisation procedure. Article 78 stipulates the removal of members of management if they do not adhere to a code of business ethics, which must be adhered to as part of the reorganisation process.	

		Article 7	Promotores y peritos: La respectiva superintendencia o la cámara de comercio, según sea el caso, al decidir la promoción oficiosa o aceptar una solicitud de un acuerdo, designará a una persona natural para que actúe como promotor en el acuerdo de reestructuración. (...) Los promotores participarán en la negociación, el análisis y la elaboración de los acuerdos de reestructuración en sus aspectos financieros, administrativos, contables, legales y demás que se requieran, para lo cual podrán contar con la asesoría de peritos expertos en las correspondientes materias, previa autorización y designación de los mismos por parte de la entidad nominadora del promotor.	Law 550 of 1999
		Article 17	Actividad del empresario durante la negociación del acuerdo: A partir de la fecha de iniciación de la negociación, el empresario [...] podrá efectuar operaciones que correspondan al giro ordinario de la empresa con sujeción a las limitaciones estatutarias aplicables. Sin la autorización expresa exigida en este artículo, no podrán adoptarse reformas estatutarias; no podrán constituirse ni ejecutarse garantías o cauciones a favor de los acreedores de la empresa que recaigan sobre bienes propios del empresario, incluyendo fiducias mercantiles o encargos fiduciarios; ni podrán efectuarse compensaciones, pagos, arreglos, conciliaciones o transacciones de ninguna clase de obligaciones a su cargo, ni efectuarse enajenaciones de bienes u operaciones que no correspondan al giro ordinario de la empresa o que se lleven a cabo sin sujeción a las limitaciones estatutarias aplicables, incluyendo las fiducias mercantiles y los encargos fiduciarios que tengan esa finalidad o encomienden o faculten al fiduciario en tal sentido. [...] Tampoco habrá lugar a compensaciones de depósitos en cuenta corriente bancaria y, en general, de depósitos y exigibilidades en establecimientos de crédito. En este evento, además de la ineficacia de la operación habrá lugar a la imposición de las multas aquí previstas a los administradores de las respectivas instituciones financieras. La imposición de tales multas por parte de la Superintendencia Bancaria, podrá dar lugar también a la remoción de los administradores sancionados.	
		Article 116	Continuidad. Los órganos sociales continuarán funcionando, sin perjuicio de las atribuciones que correspondan al contralor, a la junta provisional de acreedores y al representante legal.	Law 222 of 1995

		Article 117	Causales de remoción de los administradores. La Superintendencia de Sociedades, de oficio o por información del contralor o a petición de la junta provisional de acreedores, ordenará la remoción del o de los administradores en cualquiera de los siguientes eventos: 1. Cuando por su negligencia la sociedad no esté cumpliendo los deberes de comerciante 2. Cuando estén inhabilitados para ejercer la función o el comercio. 3. Cuando sin justa causa no cumplan las obligaciones que les impone esta ley. 4. Cuando no denunciaron oportunamente la situación que impone la apertura del trámite concursal, o habiéndolo hecho, no se aportaron los documentos necesarios. 5. Cuando debidamente citados, dejen de asistir a las reuniones de la junta provisional de acreedores, sin justa causa. 6. Cuando no cumplan las órdenes impartidas por la Superintendencia de Sociedades. 7. Cuando hagan enajenaciones, pagos, arreglos relacionados con sus obligaciones o reformas estatutarias, sin autorización de la Superintendencia de Sociedades. 8. Cuando sin justa causa no adopten las medidas que les hubiere solicitado la junta provisional de acreedores. 9. En los demás casos previstos en la ley.	
		Article 5	*Facultades y Atribuciones del Juez del Concurso* *Para los efectos de la presente ley, el juez del concurso, según lo establecido en el artículo siguiente de esta Ley, tendrá las siguientes facultades y atribuciones, sin perjuicio de lo establecido en otras disposiciones:* *[.....]* *9. Ordenar la remoción de los administradores y del revisor fiscal, según sea el caso, por incumplimiento de las órdenes del juez del concurso o de los deberes previstos en la ley o en los estatutos, de oficio o a petición de acreedor, mediante providencia motivada en la cual designará su reemplazo.*	Bill 154 of 2006

		Article 14	*Admisión o Rechazo de la solicitud de inicio del proceso* *Recibida la solicitud de inicio de un proceso de reorganización, el juez del concurso verificará el cumplimiento de los supuestos y requisitos legales necesarios para su presentación y trámite, y si está ajustada a la ley, la aceptará dentro de los tres (3) días siguientes a su presentación.* *Si falta información exigida, el Juez del Concurso requerirá mediante oficio al solicitante para que, dentro de los diez (10) días siguientes, complete lo que haga falta o rinda las explicaciones a que haya lugar. Este requerimiento interrumpirá los términos para que las autoridades competentes decidan. Desde la fecha en que el interesado aporte nuevos documentos e informaciones para satisfacer el requerimiento, comenzarán a correr otra vez los términos.* *Cuando el requerimiento no sea respondido oportunamente o la respuesta no contenga las informaciones o explicaciones pedidas, será rechazada la solicitud.* *Si la solicitud es presentada por acreedores la autoridad competente requerirá al deudor para que, dentro de los treinta (30) días siguientes presente los documentos exigidos en la ley.* *Si la información allegada por el deudor no cumple dichos requisitos se le requerirá para que dentro de los diez (10) días siguientes los allegue al proceso. Si este requerimiento no se cumple, se ordenará la apertura del proceso de liquidación judicial u ordenará la remoción inmediata de los administradores.*	Bill 154 of 2006
		Article 78	*Transparencia Empresarial.* *Los acuerdos de reorganización incluirán un Código de Gestión Ética Empresarial y de responsabilidad social, exigible al deudor, el cual precisará, entre otras, las reglas a que debe sujetarse la administración del deudor* [...] *El incumplimiento de las obligaciones derivadas de los códigos de gestión ética empresarial dará lugar a la remoción del cargo y a la imposición de multas sucesivas de carácter personal a cada uno de los administradores y al revisor fiscal, contralor, auditor o contador público responsables, hasta por doscientos (200) salarios mínimos mensuales legales vigentes. La imposición de una o ambas clases de sanciones corresponderá al juez del concurso competente, según el caso, y su trámite no suspende el proceso de insolvencia.*	Bill 154 of 2006
Legal reserve	50%	**SUMMARY**	The legal reserve amounts to fifty percent of shareholders' capital.	

		Article 452	RESERVA LEGAL [ART. 452—Las sociedades anónimas constituirán una reserva legal que ascenderá por lo menos al cincuenta por ciento del capital suscrito, formada con el diez por ciento de las utilidades líquidas de cada ejercicio. Cuando esta reserva llegue al cincuenta por ciento mencionado, la sociedad no tendrá obligación de continuar llevando a esta cuenta el diez por ciento de las utilidades líquidas. Pero si disminuyere, volverá a apropiarse el mismo diez por ciento de tales utilidades hasta cuando la reserva llegue nuevamente al límite fijado.	Código de Comercio

Czech Republic – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The law of the Czech Republic provides for a two-tier board system, which is similar to the German system. However, Czech companies have both the supervisory board and the management board appointed by the shareholder's meeting, rather than the supervisory board appointing the management board, as is the case in Germany. The relevant law is the Commercial Code (Act no. 513/1991) with amendments until 2003.	
One share -one vote	0	**SUMMARY**	One share one vote does not exist automatically. Voting rights are proportional to the subscribed nominal value of the share and always correspond to the "risk bearing capital." Since different series of shares may subscribe for different amounts nominal capital, the attached voting rights may differ.	
		Article 180 (2)	A voting right is attached to a share. The company statutes must stipulate the number of votes pertaining to a share, so that the same number of votes pertains to shares with an identical nominal value. Should a company issue shares with various nominal values, the number of votes pertaining to these shares shall be determined in the same proportion as the nominal value of such shares. The statutes can stipulate a limitation of voting rights by setting a ceiling on the number of votes of a single shareholder and in the same amount for every shareholder or for a shareholder and a person empowered by him.	Commercial Code
Proxy by mail allowed	0	**SUMMARY**	The law requires attendance of the shareholder or his/her proxy in person.	
		Article 184 (1)	[...] A shareholder (stockholder) participates in the general meeting in person or through a representative (proxy) holding a written power of attorney. [...]	Commercial Code
Shares not blocked before meeting	0	**SUMMARY**	The Czech law does provide for the right to block shares for no longer than seven days in case of the request of the issuer for the share issue record statement. However, this provision is not used by listed Czech companies according to the SEC.	Act on Business Activities on the Capital Market
		Article 97(1)(e)	(1) An instruction for entry of a suspension of the exercise of the right of an owner to dispose of a book-entry investment instrument (hereinafter "suspension of disposal of an investment instrument") in a register of investment instruments shall be given by the issuer where an extract from the register of an issue is requested or where an entry of a change in the register of an issue is requested, (2) An instruction for the entry of the suspension of disposal of an investment instrument shall specify the period of time for which disposal of the investment instrument is suspended. Disposal of an investment instrument pursuant to sub-section 1(e) may be suspended for no longer than 7 days.	Act on Business Activities on the Capital Market

Cumulative voting / proportional representation	0	**SUMMARY**	The law does not provide for this.	Commercial Code
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Minority shareholders have the right to redeem their shares in merger and acquisition situations, on an order by the Czech National Bank. This provision may be changed according to the 13th EU Directive on takeovers, transposed into national law through an amendment to the Commercial Code.	
		Article 183h (1)	On the basis of a minority shareholder's application, the Czech National Bank may order a shareholder or shareholders acting in concert to offer minority shareholders an opportunity of redeeming the target company's participation securities [...]	Commercial Code
Preemptive right to new issues	1	**SUMMARY**	A preemptive right exists to subscribe up to an amount that would give the shareholder the same proportion of shares after the new issue as he held before the new issue. However, the preemptive right can be restricted or eliminated if serious reasons on the part of the company exist.	
		Article 204a	1) Where registered capital is to be increased by a new subscription, each shareholder has a preemptive right to subscribe for a part of the company's new shares, in proportion to his holdings in the existing registered capital [...] 5) Shareholders' pre-emptive rights may not be restricted or eliminated in the statutes; a resolution of the general meeting to increase registered capital may only restrict or exclude pre-emptive rights if there is a serious reason to do so on the part of the company.	Commercial Code
% of share capital to call an ESM	3% / 5%	**SUMMARY**	An ESM can be called by three percent of the share capital if the registered capital of the company exceeds CZK 100 million, and by five percent of the share capital if the registered capital equals CZK 100 million or below.	
		Article 181 (1)	A shareholder or shareholders of a company whose registered capital is higher than CZK 100 million and who have shares with a total nominal value exceeding 3% of registered capital, and also a shareholder or shareholders whose registered capital is CZK 100 million or less and who have shares with a total nominal value exceeding 5% of the registered capital, may ask the board of directors to convene an extraordinary general meeting to discuss proposed matters.	Commercial Code
Mandatory dividend	0	**SUMMARY**	Mandatory dividend does not exist. In some instances, the Commercial Code forbids the payment of dividends (Article 178(2)).	
		Article 178 (1)	A shareholder is entitled to a proportion of the company's profit which the general meeting approved for distribution to shareholders. […]	Commercial Code

Czech Republic – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Debtors can seek protection from creditor claims for three months. (Until July 2007, this can be extended by court order for 6 months -- creditors' committee approval is needed for the debtor to file for protection period extension.). Thereafter, however, dissolution must proceed if the company is still insolvent. In addition to the Commercial Code, insolvency proceedings are governed by the Law on Bankruptcy and Compensation, No 328/1991, as amended until 2003. Act No. 182/2006 Coll. on Insolvency and its Resolution, as amended, which will come into force on 1 July 2007, introduces a new protection period known as 'moratorium' – which can only be extended for 30 days – and replaces the creditors' committee approval with the approval of the majority of creditors to file the motion for a moratorium and an extension moratorium. The majority is calculated based on the amounts of creditors' claims. Their signature or written approval has to be verified by a notary.	
Restrictions on going into reorganisation	0	**SUMMARY**	Management is allowed to make all decisions until a company becomes insolvent. If the company is bankrupt, winding up must follow, either decided by the members of a company or by court order. The court, however, will give the company a time limit to resolve the problems.	
		Article 68	3) (c) A company shall be wound up: on the date specified in a resolution adopted by its members, or by the competent organ of the company, as the day on which the company will be wound up; otherwise, on the date when such a resolution was adopted, if the company's winding up is connected with liquidation. […] 7) In the instances when this code permits a company to be wound up by a court order, prior to such order the court shall set a time limit for the company to remove the ground on which its winding up is proposed, if it is feasible to remove (remedy) such ground.	Commercial Code

		Article 5a(1) Article 115 Article 119	The debtor can file a motion requesting the granting of a protection period within 15 days of the serving of a copy of the petition for adjudication of a bankruptcy order by court, if the petition was filed by a creditor or a person other than the debtor. A debtor who engages in business may, within 7 days of the date of delivery of the insolvency petition, and in case of an insolvency petition filed by a creditor, within 15 days of its delivery by the insolvency court, file a motion for a protection period with the insolvency court (a legal entity in liquidation shall not have such right). The moratorium (protection period) shall be effective as of the publication of the decision on moratorium in the insolvency register, and shall have the duration set out in the motion for the protection period that shall not exceed 3 months. Upon a motion filed by the debtor, the insolvency court may extend the moratorium (protection period) by no more than 30 days, provided that the debtor attaches to such a motion an updated list of obligations as at the date of the motion.	Bankruptcy Code Act No. 182/2006 Coll. on Insolvency and its Resolution, as amended
No automatic stay on Assets	0	**SUMMARY**	Creditors have no right to access their assets during the protection period.	
		Article 5d Article 109(1) Article 120(2)	During the protection period: b) Creditors cannot demand of debtors satisfaction of their claims by execution of a decision (judgment execution), except in the case of claims concerning employment relationships, taxes, charges, custom duties and social security and health insurance contributions [...]. The following effects are associated with the instigation (opening) of the insolvency proceedings: … c) the enforcement of a decision or execution that would affect assets owned by the debtor or assets forming property the estate, may be ordered but not carried out (can not be executed). Unless stipulated otherwise hereafter, the effects associated with the instigation (opening) of insolvency proceeding shall be preserved for the duration of the moratorium (the protection period).	Bankruptcy Code Act No. 182/2006 Coll. on Insolvency and its Resolution, as amended
Secured creditors first (paid)	0	**SUMMARY**	During bankruptcy proceedings, creditors are satisfied under the conditions set out in resolution according to a distribution schedule. Secured creditors are satisfied prior to the distribution schedule. However, in the course of liquidation, wages enjoy preferential treatment over the satisfaction of secured creditors.	

		Section 74(3)	In the course of liquidation, the liquidator shall preferentially settle wage arrears claimed by the company's employees, unless he is bound to file an insolvency petition.	Commercial Code
		Article 305 and related provisions	1) Prior to the distribution schedule, outstanding claims to be satisfied at any time during the bankruptcy proceedings shall be satisfied, specifically claims against the property of the estate, claims ranking *pari passu* with claims against the property of the estate, and the secured claims to the extent set out in Article 298 and 299 (1) thereof. 2) If the proceeds of liquidation of the property of the estate do not suffice to satisfy all claims referred to in sub-section 1, the remuneration and out of pocket expenses of the insolvency trustee shall be paid first, followed by creditors´claims pursuant to Article 168 (1) d) and Article 169 (1) g), then creditors´ claims under credit financing, then costs of maintenance and management of the property of the estate, then creditors´ claims in respect of child support under the law; other claims shall be satisfied pro rata (proportionally). However, liquidation proceeds pursuant to Article 298 (2) may be used to satisfy other claims only after the claims of secured creditors have been satistifed.	Act No. 182/2006 Coll. on Insolvency and its Resolution, as amended
		Article 298(2)	Secured creditors shall be entitled to satisfaction of their claims out of the proceeds of liquidation of the thing, right, receivable or other property values securiing their claims.	
Management replaced	0	**SUMMARY**	The law does not provide for the replacement of management during the protection period. The statutory organ is allowed to appoint a liquidator, who runs the company and replaces the board of directors, in case of prolonged insolvency. Therefore, management is replaced in case a company enters bankruptcy proceedings, but not during the protection period. Act No. 182/2006 on Insolvency and its Resolution, as amended, introduces the figure of the interim insolvency trustee.	
		Section 71(1)	A liquidator shall be appointed by the statutory organ of the company concerned, unless the law, deed of association or the statutes provide otherwise. Should a liquidator not be appointed without undue delay, he shall be appointed by the court. [...]	Commercial Code

		Section 5a(1)	The debtor can file a motion requesting the granting of a protection period within 15 days of the serving of a copy of the petition for adjudication of a bankruptcy order by court, if the petition was filed by a creditor or a person other than the debtor.	Bankruptcy Code
		Article123(1)	Upon the debtor's motion, the insolvency court shall in its ruling granting the moratorium (protection period) appoint an interim insolvency trustee. During the protection period, the insolvency court may further appoint an interim insolvency trustee upon a motion of the debtor's creditor(s) who did not sign approval which is needed for granting a moratorium (protection period) under Article 116 (2) and whose claims, calculated according to their amount, amount to a minimum of one tenth of claims of creditors listed by the debtor in the list of obligation.	Act No. 182/2006 Coll. on Insolvency and its Resolution, as amended
		Article 112(1)	The insolvency court may appoint an interim insolvency trustee by virtue of preliminary injunction, with or without motion, if the insolvency court issued a preliminary measure restricting the debtor's disposal with property of the estate to a greater extend that stipulated in Article 111.
		Article 27(2)	…The insolvency court may not define rights and obligations of the interim insolvency trustee more broadly than those of the insolvency trustee following the ruling of insolvency…
Legal reserve	20%	**SUMMARY**	The legal minimum reserve is twenty percent.	
		Section 217(2)	A company is required to set up a reserve fund derived from the net profit recorded in the annual report for the year in which the profit was made in the amount of at least 20% of the net profit, however not more than 10% of the registered capital. This fund shall be augmented annually by an amount specified in the statutes, but by no less than 5% of net profit, until the amount of the reserve fund fixed in the statutes is reached, this being equal to at least 20% of the registered capital. [...]	Commercial Code

Egypt – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The corporate legal framework of Egypt primarily originates from French civil law. Sharia law has little direct influence on corporate governance. While there are four laws under which a company listed on the exchange may be incorporated, the only relevant one from this perspective is the Companies Law (CL 159/1981) on joint stock companies, partnerships limited by shares & limited liability companies. In the CL, the capital of a "joint stock company" is divided into shares of equal value and the liability of shareholders is confined to the shares subscribed. In a "partnership limited by shares" the capital consists of the part that belongs to one or more partners, and of shares of equal value subscribed by one or more shareholders. The joint partners are answerable for the liabilities of the company in unlimited responsibility, but the shareholder partner is only responsible within the value of the shares subscribed. The "limited liability company" is not allowed to issue negotiable shares. Only joint stock companies and limited by shares companies can be listed on the Exchange. The version of the Companies Law used was that available from Egyptlaws.com last updated in April 2003. Anglo-American common law concepts have become more prominent with the Securities Depository Law and the proposed Capital Market Law. The main laws governing the securities market in Egypt are: The Capital Market Law (CML 95/1992), which regulates the capital market and provides the framework and supervision of the Cairo and Alexandria Stock Exchange (CASE) and regulates securities intermediation companies. The Central Depository Law (CDL 93/2000), which supports shareholder record keeping, clearing and settlement. The regulations used were those available at the website of the Capital Markets Authority, http://www.cma.gov.eg/cma/jtags/english/default_en.jsp	

One share-one vote	0	**SUMMARY**	Under the CL, companies are not required to stipulate that ordinary shares carry one vote each. The law gives equal voting rights to shareholders in Articles 59, 72, and 73, but companies are allowed to decide on the number of votes per share. Therefore, a company may permit each share to have a vote or, for instance, every five shares to have a single vote. The latter may be the option opted for and expressed in a company's statutes if its nominal or par value is low from its inception, of which case shareholders would be aware from the outset. Moreover, if shareholders wanted to change the voting system, they would be able to do so by raising this issue in the general assembly meeting. Article 9 of the Executive Regulations allows different types of shares, ordinary and preferred. While anecdotal evidence suggests that multiple share classes are currently rare in Egypt, there is no guarantee that more will not be added in the future. Ordinary shares are registered (also called "nominal"), and previously could also be bearer shares (these shares were introduced by CML 95 in 1992, Article 1 of Executive Regulations). However, the latter are no longer listed on CASE, since companies with bearer shares are required by law to deposit their shares at the clearing company, Misr for Clearing Settlement and Central Depository (MCSD), so that they are virtually converted to nominal shares. Such shares were formerly bearer shares when the companies were first established and when the shares were in physical, rather than virtual, form. Preferred shares, which can be issued if permitted by the company statutes and approved by an Extraordinary General Meeting, may have privileges in terms of voting, dividends, liquidation, and capital increases. Preferred shares may receive a fixed percentage of dividends to be paid before other dividends. Additionally, they may be offered priority in liquidation and in capital increases. Although non-voting preferred shares do not exist in Egypt, cumulative preferred shares are allowed. In most cases, voting rights are capped at two votes per shares, but there is no legal limit.	
		Article 9	The company's statute may specify certain privileges for certain types of nominal shares with regard to voting, profits, or the outcome of liquidation provided that the same type shares are equal in respect of rights, privileges or restrictions.	Executive Regulations of the Capital Market Law, No. 95/1992
Proxy by mail allowed	0	**SUMMARY**	Although voting by mail is not explicitly allowed, the law is not prohibitive in this respect. Voting is permitted in person or by proxy. Shareholders or their proxies have to be present at meetings (PCSU Report and Cairo & Alexandria Stock Exchanges Research & Markets Development Department Working Paper Series, by Dr. Shahira Abdel Shahid, Director of Research & Markets Development September 2001). Proxy voting is subject to the following limitations: if the proxy is an individual, then the proxy must be a shareholder, have a power of attorney, not be a board member, and not represent more than ten percent of total shares and twenty percent of shares represented at the meeting. These requirements do not apply to institutions or legal persons.	
		Article 59	Every shareholder is entitled to attend the General Assembly of Shareholders, personally or by proxy.	Companies Law 159 of 1981

Shares not blocked before meeting	1	**SUMMARY**	Article 205 of the Companies Law states that share transfers do not need to be registered from the date of the notice of the meeting to the date of the meeting. According to CASE's Deputy Chairman Maged Shawky Sourial, however, not only must shareholders register their intent to vote prior to the date of the AGM, but their shares are also blocked by the MCSD from at least one day before until one day after the meeting.	
		Article 205 (Regulations)	The ownership of shares shall not have its transfer registered in the company books as of the date of summons for the meeting shall be published or sending such summons to people concerned up to the date the general assembly shall have concluded its proceedings.	Companies Law 159 of 1981
Cumulative voting / proportional representation	0	**SUMMARY**	Cumulative voting and proportional representation are not mentioned in the law. Article 63, describing the duties of an ordinary general meeting, states that it is responsible for the election and dismissal of directors. Article 230 of the regulations states that voting shall be in the manner decided by the Statutes.	
		Article 63	With observance of the provisions of the present law, and the statutes of the company, the ordinary General Assembly will be concerned with the following:- a) Selection of the members of the administrative board and their dismissal. […]	Companies Law 159 of 1981
		Article 230 (Regulations)	Voting in the general assembly shall be carried according to the method specified by the Statutes and in case of absence of such a method the chairman of the meeting shall propose the manner to be adopted subject to the approval of the assembly.	
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	There are several provisions to protect minority shareholders. First, any shareholder who attends the Annual General Meeting (AGM) and registers his opposition to a decision in the minutes can initiate a case in court within one year of the meeting. Article 76 of the Companies Law also states that any resolutions passed at a general meeting to benefit only one class of shareholders etc shall be revoked. However, it is unclear who makes this determination. Second, shareholders have appraisal rights and can withdraw from the company in case of mergers or incorporation with other companies. The price of withdrawal is determined by agreement or by the court. Third, every shareholder has the right to file a complaint pertaining to any legal violation with the relevant administrative agency, e.g. General Authority for Investment (GAFI). Upon the request of shareholders, the Capital Market Authority (CMA) and GAFI, within their respective authorities, can carry out company inspections and attend the AGM to ensure that administrative procedures are followed correctly and that decisions do not unfairly favour one group of shareholders over another.	

			The fourth and most effective form of redress may be the special power of the CMA, which has direct power in the Capital Markets Law. Article 10 gives the CMA Board of Directors the power to "suspend resolutions" of the general meeting if they are issued for the benefit of a certain category of shareholders. The CMA receives a complaint from investors (representing more than five percent of capital) or on behalf of shareholders from a CMA staff member attending an annual meeting. If the CMA legal department determines that the case has merit, it is passed on to the CMA Board of Directors for review. The CMA Board can then pass the case to a securities market arbitration panel. Every shareholder has the right to file a complaint with the Companies Organization (COOR) regarding violation of CL 159. A shareholder who attends the AGM and registers his opposition to a decision in the minutes, can initiate a case in court within one year from the meeting. Article 76 of CL 159 states that "…all resolutions issued for the benefit of a certain category of shareholders or causing harm to them, or bringing special benefit to the members of the board of directors or others without considering the company's position, shall be revoked." If shareholders representing at least five percent of capital file a complaint, CMA has the power to suspend resolutions of the AGM that are considered to unfairly favour a given group of shareholders, or causing harm to them, or unfairly bringing about a benefit to the members of the board or others. Although the Capital Market Law initially permitted only fifteen days to submit an issue for arbitration, in 2001 a constitutional court removed the fifteen day limitation. Shareholders representing ten percent of capital can request CMA or COOR to conduct an inspection. The proposed CML draft introduces the concept of class action to be initialised by CMA. Now only collective action, where each plaintiff is personally listed, is possible under Egyptian law.	
		Article 76	[…] Likewise any decision issued in favour of a certain group of the shareholders, or in their prejudice, may be nullified, or if it aims at procuring special advantage to the members of the board of administration or others, in disregard to the interests of the company. The demand for nullification in this case can only be made by shareholders who had protested against the decision in the minutes of the general meeting. The relevant administrative authority may replace them in the application for nullification, if they invoke serious reasons [...]	Companies Law 159 of 1981
Preemptive right to new issues	0	**SUMMARY**	There are no automatic preemptive rights by law. Any preemptive rights are defined according to the statutes of the company.	
		Article 96 (Regulations)	The statutes of the company shall provide provisions specifying the extent of priority provided for the old shareholders in the subscription of the capital increase shares in case achieved through cash. The statutes shall not include limiting such a right to certain shareholders only and this shall be without prejudice to rights adopted for distinguished shares. Such a right may -- during the period of subscription -- be circulated whether separately or affiliated to the original shares.	Companies Law 159 of 1981

		Article 30	The statute of the company may include a stipulation regarding the extent of the pre-emptive rights of the present shareholders to subscribe in the shares of capital increase by cash nominal shares and by observing the privileges determined for them in accordance with provisions of Article (9) hereof. The statute may not include a stipulation limiting this right to certain shareholders rather than others, and without prejudice to the rights that could be specified for the preferred shares. This right may be traded during the period of subscription in the capital increase whether separately or dependently with the principal shares.	Executive Regulations of the Capital Market Law, No. 95/1992
		Article 31	The period during which all existing shareholders may have preemptive right to subscribe in the shares of capital increase, and in case such right is specified, it should not be less than thirty days from the date of subscription commencement. […]	
% of share capital to call an ESM	10%	**SUMMARY**	Article 61 of Companies Law 159 gives shareholders representing five percent of capital the right to call the AGM, if the board did not do so. Extraordinary shareholder meetings are held at the request of ten percent of share capital or the board of directors.	
		Article 61	[…] The board is called upon to convoke the ordinary General Assembly if the auditor of accounts demands this from it, or at least a number of shareholders representing five percent of the capital of the company […]	Companies Law 159 of 1981
		Article 70	(a) the extraordinary General Assembly meets upon an invitation of the board of Administration. The board should address the invitation if it is asked by a number of Shareholders representing one-tenth of the capital at least […]	
Mandatory dividend	0	**SUMMARY**	Article 63 of the Company Law states that the Annual General Meeting approves the distribution of cash dividends following the review of the auditor report, with Articles 191 - 199 of the regulations covering the form of the distribution.	
		Article 63	With observance of the provisions of the present law, and statutes of the company, the ordinary General Assembly will be concerned with the following: […] (e) Approval of the distribution of profits.	Companies Law 159 of 1981

Egypt – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Bankruptcy provisions can be found in the Egyptian Trade Law (sometimes called Commercial Code by translators), Law No.17 of the year 1999. This came into effect on October 1st 1999. This law deals solely with bankruptcy. True reorganisation (akin to US Chapter 11) is not included in Egyptian laws, although there are provisions in the Egyptian system allowing for "preventive settlement", a form of reorganisation.	
Restrictions on going into reorganisation	0	**SUMMARY**	Although there are provisions in the Egyptian system allowing for "preventive settlement", a form of reorganisation, these provisions are complicated and not comprehensive, so true bankruptcy reorganizations are unlikely to occur (James C. Regan, USAID Report, 1998).	
No automatic stay on assets	1	**SUMMARY**	During reorganisation there is no automatic stay on assets.	Trade Law 17 of 1999
Secured creditors first (paid)	0	**SUMMARY**	Articles 616 and 618 of the Trade Law provide for certain creditors to have priority over customers in the bankruptcy, such as for taxes and wages, while article 635 permits a bankruptcy judge to allow money necessary for spending on urgent matters. Any debts arising from the liquidation process have priority as indicated by Article 148 of the Companies Law.	
		Article 616	The bankruptcy trustee, after getting permission from the bankruptcy judge, shall pay, within ten days following issuance of the bankruptcy declaration ruling, out of the bankruptcy money and despite the existence of any other debt, wages, and salaries, and amounts that were due before issuance of the bankruptcy declaration ruling, for a period of thirty days for the workers of the bankrupt. If the bankruptcy trustee does not have the money necessary to settle these debts, settlements shall be made from the first money entering the bankruptcy, even if there are other debts preceding them in lien degree.	Trade Law 17 of 1999
		Article 618	The lien prescribed for the government concerning all kinds of taxes shall only comprise the tax due on the bankrupt for the two years prior to issuing the bankruptcy declaration ruling. The other due taxes shall be included within the distributions in their quality of ordinary debts.	
		Article 148	Any debt arising from the works of liquidation shall be paid from the assets of the company, with priority on other debts.	Companies Law 159 of 1981
Management replaced	NA	**SUMMARY**	Although there are provisions in the Egyptian system allowing for "preventive settlement", a form of reorganisation, these provisions are complicated and not comprehensive, so true bankruptcy reorganizations are unlikely to occur.	

Legal reserve	50%	**SUMMARY**	The Companies Law stipulates that if losses amount to half of the issued capital, the board must convene an extraordinary meeting to consider dissolution. This was also confirmed by a Cairo & Alexandria Stock Exchanges Research & Markets Development Department Working Paper by Dr. Shahira Abdel Shahid, Director of Research & Markets Development, September 2001.	
		Article 69	If the losses of the company reach half the issued capital, the board of administration should promptly convoke the extraordinary General Assembly for consideration of the dissolution of the company or its continuance.	Companies Law 159 of 1981

Hungary – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The relevant law, Act IV of 2006 on Business Associations, has been issued in 2006 and effective from 18 August 2006.	
One share -one vote	0	**SUMMARY**	One share-one vote is not automatically in place. The voting rights are proportional to the face value of the share.	
		Section 216.	(1) With the exceptions set out in this Act, voting rights attached to shares shall be determined by the face value of such shares. (2) The procedure for exercising voting rights shall be laid down in the articles of association within the framework specified in this Act and in the Act on Securities. (3) Shareholders in any arrears in their capital contribution shall not be able to exercise their voting rights.	Act IV of 2006
		Section 299.	(1) The articles of association of a public limited company may stipulate the maximum level of voting rights which may be exercised by a single shareholder. When establishing maximum voting rights, shareholders must not be discriminated against in any way. (2) The provision of the articles of association for the restriction of voting rights according to Subsection (1) shall be abolished in accordance with the act governing securities upon the closure of a bid defined therein, if it results in the acquisition of at least seventy-five per cent of the voting rights in the public limited company.	
		Section 188.	(1) Holders of shares attaching preferential voting rights may exercise multiple voting rights to the extent defined in the articles of association. The voting rights attached to one share, however, may not exceed the voting rights corresponding to the face value of the share by a factor of ten. (2) The articles of association may contain provisions to prescribe that certain resolutions of the general meeting may be adopted solely upon the simple majority vote of the shares attaching preferential voting rights, or if there is only one share attaching preferential voting rights in issue, it may be adopted if supported by the holder of this share. (3) The articles of association shall expressly specify the issues to which the preferential right referred to in Subsection (2) applies, including the cases where preferential voting rights apply to all decisions conferred under the exclusive competence of the general meeting. In the absence of these, any provision of the articles of association relating to the preferential right referred to in Subsection (2) shall be null and void.	

		Section 212	(5) One share may have several owners who shall be treated as a single shareholder in respect of the private limited company; their rights may only be exercised by their joint representative and they shall bear joint and several liability for the obligations of shareholders. (6) Shareholders' representatives acting on the basis of the statutory provisions on securities shall exercise shareholders' rights in respect of the company in their own name and for the benefit of the shareholder.	
Proxy by mail allowed	0	**SUMMARY**	Proxy by mail is not explicitly allowed for ordinary shares. However, section 216 indicates that this is allowed if set forth in the deed of foundation.	
		Section 213.	(1) Shareholders may exercise their shareholders' rights through representatives. The auditor may not function as such representative. Unless otherwise provided for in the articles of association, members of the management board, the general director (Section 247), directors, executive employees of the company and supervisory board members may not serve as representatives. (2) One representative may represent several shareholders; however, one shareholder may have only one representative. (3) Unless otherwise prescribed in the articles of association, authorizations for representation may be valid for one general meeting or a fixed period of time not to exceed twelve months. The validity of authorizations of representation shall cover the resumption of suspended general meetings and to general meetings re-convened due to lack of a quorum. (4) Authorizations shall be submitted to the private limited company in the form of an authentic instrument or private document representing conclusive evidence.	
		Section 216	(1) With the exceptions set out in this Act, voting rights attached to shares shall be determined by the face value of such shares. (2) The procedure for exercising voting rights shall be laid down in the articles of association within the framework specified in this Act and in the Act on Securities. (3) Shareholders in any arrears in their capital contribution shall not be able to exercise their voting rights.	
Shares not blocked before meeting	1	**SUMMARY**	Shares are not automatically blocked before the meeting. However, this can be regulated in the deed of association. Shareholders may be blocked if they have not paid the full amount due of the face value or issue price of their shares.	
		Section 216	(1) With the exceptions set out in this Act, voting rights attached to shares shall be determined by the face value of such shares. (2) The procedure for exercising voting rights shall be laid down in the articles of association within the framework specified in this Act and in the Act on Securities. (3) Shareholders in any arrears in their capital contribution shall not be able to exercise their voting rights.	Act IV of 2006

		Section 218	(1) Shareholders shall be required to pay up and make available to the private limited company the cash and in-kind contributions covering the face value or issue price of the shares they have received within the time limit specified in Section 210. With the exception of a reduction of share capital, shareholders may not be exempted from this obligation and they shall not, during the company's existence, be able to reclaim the contributions they have made. (2) Within the time limit set out in Section 210, shareholders are obliged to pay the face value or issue price of their shares when so notified by the management board according to the conditions laid down in the articles of association. Shareholders may satisfy their payment obligation prior to receiving the said notice. (3) If the shareholders' rights of a shareholder are terminated pursuant to Section 14, and his obligation to provide the contribution on the shares subscribed or undertaken to be subscribed by the shareholder in the articles of association is not assumed by another person, the share capital must be reduced consistent with the contribution committed by such shareholder in default. (4) The value of the contribution provided by shareholders in default shall be due to such shareholders following the reduction of the share capital, or when the replacement shareholder performs his contribution towards the company.	
Cumulative voting / proportional representation	0	**SUMMARY**	The law does not automatically provide for cumulative voting or proportional representation. However, both can be introduced via deed of foundation.	
		Section 216	(2) The procedure for exercising voting rights shall be laid down in the articles of association within the framework specified in this Act and in the Act on Securities. (3) Shareholders in any arrears in their capital contribution shall not be able to exercise their voting rights.	Act IV of 2006

Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	The law provides for a judicial venue for oppressed minorities on a limited basis.	Act IV of 2006
		Article 45	(1) Any member (shareholder) of a business association may request the judicial review of resolutions adopted by the organs of the business association on the grounds that such resolution violates the provisions of this Act, other legal regulations, or the memorandum of association. (2) With reference to the infringement referred to in Subsection (1), any executive officer or supervisory board member may also file for the judicial review of a resolution adopted by the business association's supreme body. (3) The suit for the judicial review of an unlawful resolution of the business association shall be lodged against the business association within thirty days after such resolution has been learned of. Following expiration of a ninety-day non-appealable deadline from the date of passing the resolution, the resolution may not be contested even if it has not been communicated to the person entitled to lodge a claim or he has not learned thereof. (4) The right to lodge claims may not be validly excluded, but shall not be granted to persons who contributed with their votes to have the resolution adopted, except for cases of mistake, misrepresentation or duress. (5) Lodging a claim shall have no suspensory effect on the enforcement of the resolution; however, the carrying out of the enforcement may be suspended by the court. This ruling may not be appealed; however, the court shall have powers to overrule the decision upon request. Court injunctions may not be issued in lawsuits for the judicial review of a company resolution.	Act IV of 2006
Preemptive right to new issues	1	**SUMMARY**	Preemptive rights are provided for by the law - but only in proportion to the initial capital contribution, unless stated otherwise.	
		Section 251	(1) Where the share capital is increased by way of a cash infusion, the articles of association may contain provisions for granting preferential rights to the shareholders holding convertible bonds and bonds with subscription rights for the subscription of shares. If preferential rights are provided for the subscription of shares, the persons entitled to exercise such preferential rights, their ranking and the prescribed time limit shall be specified in the articles of association. (2) If a private limited company issues bonds with subscription rights, the preferential rights referred to in Subsection (1) shall be defined before the bonds are issued, and the preferential right shall be granted to holders of bonds with subscription rights.	Act IV of 2006

		Section 313	(1) Where a public limited company has issued shares of different types or classes, the explicit consent - as prescribed in the articles of association - of the holders of the types or classes of shares which are directly affected by the capital increase, or the holders of shares which are deemed affected by the articles of association is required for the increase of the share capital as a pre-condition for the general meeting resolution adopted for the increase of share capital to take effect. The detailed rules for the granting of such consent shall be laid down in the articles of association. This provision shall also apply to the general meeting resolutions adopted to authorize the management board to increase the capital. (2) Where the share capital is increased by way of a cash infusion, within the company's shareholders first the holders of shares belonging to the same series of issue, and then the holders of convertible bonds and the holders of bonds with subscription rights in tandem shall be granted preferential rights - in this sequence - for the subscription of shares subject to the conditions laid down in the articles of association. (3) The public limited company shall inform the shareholders, by way of the procedure laid down in the articles of association, and the holders of convertible bonds and bonds with subscription rights concerning their options and the procedure to exercise the preferential right for the subscription of shares, including the face value or issue price of shares which may be acquired, and the first and last days of the period (at least 15 days) during which such right can be exercised. (4) No clause in the articles of association concerning any restriction or exclusion of preferential subscription rights shall be considered valid. Nevertheless, the general meeting - based on a written motion presented by the management board - may decide to disallow the exercise of preferential subscription rights. In this case, the motion submitted by the management board shall specify the reasons for excluding preferential subscription rights. The detailed rules governing the contents of such motions and the order of debating shall be laid down in the articles of association. The management board shall send a copy of the general meeting resolution to the competent court of registry and simultaneously publish it in the Cégközlöny (Company Gazette).	Act IV of 2006

% of share capital to call an ESM	5%	**SUMMARY**	An ESM can be called by five percent or more of the share capital.	
		Section 49	(1) Those members (shareholders) controlling at least five per cent of the voting rights may, at any time, request that the business association's supreme body be convened, indicating the reason and the purpose thereof. The memorandum of association may also grant this right to members (shareholders) controlling a lesser percentage of the votes. If the management fails to comply with such request within thirty days, upon the request of the members making the proposal, the court of registry shall convene the meeting of the business association's supreme body within thirty days after the submission of a request to this effect, or shall empower the requesting members to convene the meeting. The ruling of the court of registry in favor of the request may not be appealed. (2) The court of registry shall be obliged to convene the business association's supreme body pursuant to Subsection (1) only if the members (shareholders) lodging the request advance the necessary costs, and provide for all other conditions for the meeting to be held. The business association's supreme body shall decide whether the costs incurred by convening the business association's supreme body be borne by the business association or the persons convening such meeting.	Act IV of 2006
Mandatory dividend	0	**SUMMARY**	A mandatory dividend does not exist	
		Section 221	(1) The general meeting of the company may adopt a decision for the payment of interim dividends between the approval of two consecutive annual reports prepared according to the Accounting Act, if the articles of association so provides and if: a) according to the interim balance sheet prepared according to the Accounting Act, the company has funds sufficient to cover such interim dividends. However, such payments may not exceed the amount of profits earned after the closing of the books of the financial year to which the last annual report pertains, calculated in accordance with the Accounting Act, and the amount supplemented with the available profit reserves and the payment of such interim dividends may not result in the company's equity capital - adjusted in accordance with the Accounting Act - to drop below its share capital; and b) if the shareholders agree to repay the interim dividend in the event of any subsequent reason arising with a view to Subsection (1) of Section 219 in the annual report prepared according to the Accounting Act on account of which no dividend can be paid. (2) The articles of association may grant authorization to the management board to decide, subject to the prior consent of the supervisory board, on the payment of interim dividends in the stead of the general meeting.	Act IV of 2006

Hungary – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Act XLIX of 1991 on Bankruptcy Proceedings, Liquidation Proceedings and Voluntary Dissolution (amended by Act VI of 2006, effective from 1 July 2006) is the current law. According to section 1 of this law, 'bankruptcy insolvency proceeding' refers to the debtor's requests for relief from its financial obligations in an attempt to seek composition agreement, or attempts to have a composition agreement concluded. 'Liquidation' refers to the proceeding aimed to provide satisfaction to the creditors of an insolvent debtor upon its dissolution and termination of its corporate existence. In case of insolvency, bankruptcy procedures have to be started. Both creditors and debtors have to agree upon a reorganisation plan, which will then interrupt the liquidation procedure of the company. In case no agreement can be reached or the reorganisation is unsuccessful, liquidation procedures will be continued. A legal reserve exists although no percentage is specified (Act IV of 2006).	
Restrictions on going into reorganisation	1	**SUMMARY**	Reorganisation needs the consent of the general meeting and creditors. Liquidation, however, does not require this consent. The law provides for trying to rescue the company via a reorganisation programme.	
		Section 18	(1) The debtor shall draw up a program to restore or preserve solvency along with a composition proposal. (2) During the period of moratorium the debtor shall arrange a meeting to negotiate a composition to which all known creditors and the temporary administrator shall be invited by delivering a composition proposal and the program aimed to restore (preserve) solvency. The invitation and the appendices shall be delivered to the invitees at least 15 days prior to the scheduled date of the meeting. (3) In the interest of reaching a composition agreement the debtor may request the assistance of interest representation bodies. (4) The debtor shall publish the venue and the scheduled date of the composition negotiations in two daily papers with national circulation at least 15 days in advance. (5) Should the negotiation fail to produce results, additional negotiation sessions may be held during the period of the moratorium.	Act XLIX of 1991
		Section 19	(2) Creditors may attend the composition negotiations in person or be represented by way of proxy. Representatives shall present proper proof of this capacity voluntarily. Consent to the composition agreement may be granted in writing.	

		Section 21	(1) The director of the debtor economic operator shall notify the court of the conclusion of negotiations for the composition agreement within 3 days of the expiration of the moratorium, and, if an agreement has been reached, shall also attach a copy of the composition agreement. Failure to meet this obligation shall entail a fine of up to 50,000 forint. (2) If no composition agreement was reached by the parties, or it was not approved, or fails to conform with the provisions of this Act, the court shall terminate the proceedings and shall order continuance of the liquidation proceedings that were suspended on the basis of Subsection (4) of Section 8. (3) If the composition agreement complies with the provisions of this Act, the court shall discharge the bankruptcy proceedings by decree.	
No automatic stay on Assets	0	**SUMMARY**	Once a company enters bankruptcy proceedings, creditors cannot access assets until conclusion of the proceedings.	
		Section 7	(1) The executive officers of economic operators may file for bankruptcy proceedings at the court.	Act XLIX
		Section 8	(4) If a petition is filed for a debtor's liquidation on or after the opening of the bankruptcy proceeding, the court shall adjourn such petition until the final and definitive conclusion of the bankruptcy proceeding.	

Secured creditors first (paid)	0	**SUMMARY**	Secured creditors are to be paid before unsecured creditors. However, "liquidation expenses" are to be paid before secured creditors can be satisfied. Liquidation expenses include wages and taxes.	
		Section 57	(1) The economic operator's debts shall be satisfied from its assets that are subject to liquidation in the following order: a) liquidation expenses described in Subsection (2), b) claims secured by lien on financial assets prior to the time of the opening of liquidation proceedings, up to the value of the pledged property and in consideration of the sums already paid pursuant to Subsection (2) of Section 49/D; if there is more than one lien on the pledged property they shall be satisfied in the sequence laid down in Subsection (1) of Section 256 of the Civil Code, c) alimony and life-annuity payments, compensation benefits, income supplement to miners, which are payable by the economic operator, furthermore, monetary aid granted to members of agricultural cooperatives in lieu of household land or produce, for which the beneficiary is entitled for his/her lifetime, d) with the exception of claims based on bonds, other claims of private individuals not originating from economic activities (in particular claims resulting from insufficient performance or compensation for damages, also including the amount of the guarantee obligations ordinarily expected in the given trade, as calculated by the liquidator), claims of small and micro companies as well as small-scale agricultural producers, e) social insurance debts and overdue private pension fund membership dues, taxes - with the exception of the tax arrears described in Paragraph c) of Subsection f) - and public debts collectable as taxes, repayable government subsidies, as well as water and sewage utility charges (…..). (2) Liquidation expenses are as follows: a) wages and other personnel costs payable by the debtor, (…..); b) costs in connection with the rational termination of the debtor's business operations incurred following the time of the opening of liquidation proceedings, furthermore, the costs in connection with the protection and preservation of his assets, including the costs of cleanup of any environmental damage and contamination, as well as the credit debts, tax and contribution payment (including employers' health-care contributions and membership fees paid to private pension funds) and compensation obligations of the debtor arising due to business operations after the opening of liquidation, with the exception of the taxes to be paid from profits; c) verified costs in connection with the sale of the assets and the enforcement of claims; d) assistance received from the wage guarantee segment of the Labor Market Fund, charged to the debtor (….).	Act XLIX
Management replaced	0	**SUMMARY**	The management stays during reorganisation, although many actions must be approved by a court-appointed temporary administrator.	
		Section 1	(2) 'Bankruptcy insolvency proceeding' means when the debtor requests relief from its financial obligations in an attempt to seek composition agreement, or attempts to have a composition agreement concluded.	Act XLIX

		Section 14	(1) The court shall appoint a temporary administrator from the register of liquidators in its decree on the moratorium. As regards conflict of interest and non-acceptance of the appointment the provisions pertaining to liquidators shall duly apply. (2) The directors of a debtor economic operator shall take any action within their official capacity only if it does not violate the powers vested in the temporary administrator. (3) The temporary administrator shall have the powers specified below so as to monitor the debtor's business activities with a view to protect the creditors' interests: a) review the debtor's financial standing, which may entail inspection of the books, cash-desk, securities holdings and inventories of goods, contracts and bank accounts of the debtor, requesting information from the directors of the economic operator, and shall inform the creditors regarding his findings in accordance with the provisions of Section 5; … c) approve - subject to the exceptions set out under Subsection (1) of Section 12 - any financial commitment of the debtor after the time of the opening of bankruptcy proceedings if it is for an amount in excess of the limit fixed by the creditors in the moratorium agreement; d) advise the debtor to enforce its claims, and shall oversee the way it is executed; e) contest by litigation any contract or legal statement the debtor has made within the year preceding the time of the opening of bankruptcy proceedings and those made subsequently if it entails the debtor's commitment for the transfer or encumbrance of any part of its assets without compensation, or if the stipulated consideration constitutes unreasonable and extensive benefits to a third party. (4) The temporary administrator may approve any payment of expenditures only if it is within reason for the proper operation of the debtor. (5) The temporary administrator shall act with due diligence under the given circumstances at all times. The temporary administrator shall be held liable in accordance with the general provisions of civil law for damages caused by any breach of his obligations.	
		Section 17	(1) The office of the temporary administrator shall be terminated upon the termination (discharge) of the bankruptcy proceedings, or, in the case of continuance of a suspended liquidation proceeding, upon appointment of a liquidator.	
Legal reserve	open	**SUMMARY**	There is a legal reserve below which dividends cannot be paid. This is set as the value of the initial capital of the company.	
		Section 219 (1)	(1) The private limited company may effect any disbursement from its own funds to a shareholder, on account of his membership, during the company's existence solely in the cases defined in this Act and only if the conditions set out in the Accounting Act are satisfied, with the exception of the reduction of the share capital, from the taxed profit for the current year, or from the taxed profit from the current year supplemented with available profit reserves. No disbursement can be made if the company's equity capital - adjusted in accordance with the Accounting Act - is below its share capital or it would be reduced to drop below the share capital if the payment was made.	Act IV of 2006

		Section 220 (1)	(1) Shareholders shall be entitled to receive a share from the private limited company's taxed profit that is available and has been ordered for distribution by the general meeting under Subsection (1) of Section 219 in the percentage consistent with the face value of their shares (dividend). Dividends shall be paid to the shareholders listed in the register of shareholders at the time the general meeting adopting the decision for the payment of dividends was held, unless another time is prescribed in the articles of association. The articles of association may contain a clause for dividends to be provided in cash or in kind. Shareholders shall be entitled to receive dividends only in the proportion of the capital contributions they have already paid up.	
		Section 221	(1) The general meeting of the company may adopt a decision for the payment of interim dividends between the approval of two consecutive annual reports prepared according to the Accounting Act, if the articles of association so provides and if: a) according to the interim balance sheet prepared according to the Accounting Act, the company has funds sufficient to cover such interim dividends. However, such payments may not exceed the amount of profits earned after the closing of the books of the financial year to which the last annual report pertains, calculated in accordance with the Accounting Act, and the amount supplemented with the available profit reserves and the payment of such interim dividends may not result in the company's equity capital - adjusted in accordance with the Accounting Act - to drop below its share capital; and b) if the shareholders agree to repay the interim dividend in the event of any subsequent reason arising with a view to Subsection (1) of Section 219 in the annual report prepared according to the Accounting Act on account of which no dividend can be paid. (2) The articles of association may grant authorization to the management board to decide, subject to the prior consent of the supervisory board, on the payment of interim dividends in the stead of the general meeting.	

India – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		India is a common law country. The Capital Markets Division of the Department of Company Affairs, Ministry of Finance, regulates capital markets and security transactions. Five acts enable the Government to make these regulations and govern corporate activity in the country: the Companies Act, 1956 with its periodic amendments; the Securities Contracts (Regulation) Act, 1956; Preference Shares (Regulation of Dividends) Act 1960, the Securities and Exchange Board of India (SEBI) Act, 1992; and the Depositors Act, 1996. The latest amendments to the Companies Act, 1956 were the Companies (Amendment) Act, 2002 [with effect from 13 January, 2003] and the Companies (Amendment) Act, 2006. The Amendment Act 2002 provides for the constitution of a National Company Law Tribunal ("Tribunal"). The functions that were handled by the Company Law Board (CLB) (dispute resolution and compliance with certain provisions of the Companies Act, 1956), Board for Industrial & Financial Reconstruction (BIFR) (revival and rehabilitation of sick companies) and High Courts (winding up of companies) are now handled by the Tribunal. The Companies (Amendment) Act, 2006 has been notified with effect from May 29, 2006. This legislation amends the Companies Act, 1956 to incorporate certain provisions that make it mandatory for every existing and prospective director of a company to obtain Director Identification Number ("DIN"). These new provisions provide, *inter alia*, that no company shall appoint or re-appoint any individual as director of the company unless he has been allotted a DIN. The amendments further provide that every individual intending to be appointed as a director or every director of a company appointed before the said amendment shall apply to the Central Government for allotment of DIN. The Companies Act is an umbrella law that regulates the pre-incorporation, incorporation, operations and duties of companies. It also deals with the rights and obligations of directors and shareholders. It is administered by the department of company affairs (DCA) and enforced by the Tribunal. At present, a concept paper on the Companies Act, which aims to make the unwieldy law slimmer and better organized, is available for comment through the government of India website.	
One share-one vote	1	**SUMMARY**	Indian corporate law is based on the premise that all shareholders are equal within each class. There are two types of shares: preference shares and ordinary shares. Preference shares are not popular in India. Ordinary shares carry one share one vote (Section 87). The Companies Act has a specific provision (Section 89) to reduce excessive voting rights in existing companies.	Companies Act, 1956

		Section 87	Voting rights (1) Subject to the provisions of section 89 and sub-section (2) of section 92, every member of a company limited by shares and holding any equity share capital therein, - (a) shall have a right to vote, in respect of such capital, on every resolution placed before the company; and (b) his voting right on a poll shall be in proportion to his share of the paid-up equity capital of the company. […] Provided that the Central Government may, by rules made in this behalf, specify a class or classes of companies in the which the voting right in respect of preference shares shall not accrue or accrue subject to such conditions as may be prescribed.	Companies Act 1956
		Section 89	Termination of disproportionately excessive voting rights in existing companies (1) If at the commencement of this Act any shares, by whatever name called, of any existing company limited by shares carry voting rights in excess of the voting rights attaching under sub-section (1) of section 87 to equity shares in respect of which the same amount of capital has been paid-up, the company shall, within a period of one year from the commencement of this Act, reduce the voting rights in respect of the share first mentioned so as to bring them into conformity with the voting rights attached to such equity shares under sub-section (1) of section 87.	
Proxy by mail	0	**SUMMARY**	Proxy voting in person is allowed (Section 176). Section 192A provides that a listed company may pass a resolution by means of postal ballot. However, there is no provision in the law that allows proxy by mail.	
		Section 176	Proxies: Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of himself; but a proxy so appointed shall not have any right to speak at the meeting.	Companies Act 1956
		Section 192A	Passing of resolutions by postal ballot: (1) Notwithstanding anything contained in the foregoing provisions of this Act, a listed public company may, and in the case of resolutions relating to such business as the Central Government may, by notification, declare to be conducted only by postal ballot, shall, get any resolution passed by means of a postal ballot, instead of transacting the business in general meeting of the company. …. (Explanation: For the purpose of this section, "postal ballot" includes voting by electronic mode.)	
Shares not blocked before meeting	1	**SUMMARY**	The law does not require that shares be deposited prior to a General Shareholders Meeting.	
Cumulative voting / proportional representation	1	**SUMMARY**	Section 183 provides shareholders with the right of cumulative voting.	Companies Act 1956
		Section 183	Right of member to use his votes differently On a poll taken at a meeting of a company, a member entitled to more than one vote, or his proxy, or other person entitled to vote for him, as the case may be, need not, if he votes, use all his votes or cast in the same way all the votes he uses.	

Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Remedies are available through the Tribunal. The Tribunal hears shareholder complaints against oppression by management if requested by not less than 100 shareholders or shareholders representing not less than ten percent of capital (Sections 397-399).	
		Section 397	Application to Tribunal for relief in cases of oppression (1) Any member of a company who complains that the affairs of the company are being conducted in a manner prejudicial to public interest or in a manner oppressive to any member or members (including any one or more of themselves) may apply to the Tribunal for an order under this section, provided such members have a right so to apply in virtue of section 399. (2) If, on any application under sub-section (1) the Tribunal is of the opinion- (a) that the company's affairs are being conducted in a manner prejudicial to public interest or in a manner oppressive to any member or members; and (b) that to wind up the company would unfairly prejudice such member or members, but that otherwise the facts would justify the making of a winding up order on the ground that it was just and equitable that the company should be wound up; the Tribunal may, with a view to bringing to an end the matters complained of, make such order as it thinks fit.	Companies Act 1956
		Section 398	Application to Tribunal for relief in cases of mismanagement (1) Any members of a company who complain: (a) that the affairs of the company are being conducted in a manner prejudicial to the public interest or in a manner prejudicial to the interests of the company; or (b) that a material change (not being a change brought about by, or in the interests of, any creditors (including debenture holders, or any class of share holders, of the company, […]has taken place in the management or control of the company, whether by an alteration in its Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason of such change, it is likely that the affairs of the company will be conducted in a manner prejudicial to public interest or in a manner prejudicial to the interests of the company; may apply to the Tribunal for an order under this section, provided such members have a right so to apply in virtue of section 399. (2) If, on any application under sub-section (1) the Tribunal is of the opinion that the affairs of the company are being conducted as aforesaid or that by reason of any material change as aforesaid in the management or control of the company, it is likely that the affairs of the company will be conducted as aforesaid, the Tribunal may, with a view to bringing to an end or preventing the matters complained of or apprehended, make such order as it thinks fit.	

		Section 399	Right to apply under sections 397 and 398 (1) The following members of a company shall have the right to apply under section 397 or 398:- (a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, provided that the applicant or applicants have paid all calls and other sums due on their shares; […] (3) Where any members of a company are entitled to make an application in virtue of sub-section (1), any one or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.	
Preemptive right to new issues	1	**SUMMARY**	Pre-emptive rights are provided by the Companies Act (Section 81)	
		Section 81	Where at any time after the expiry of two years the formation of a company or at any time after the expiry of one year from the allotment of shares in that company made for the first time after its formation, whichever is earlier, it is proposed to increase the subscribers capital of the company by allotment of further shares, then such [further] shares shall be offered to the persons who, at the date of the offer, are holders of the equity shares of the company, in proportion, as nearly as circumstances admit, to the capital paid-up on those shares at that date.	Companies Act 1956
% of share capital to call an ESM	10%	**SUMMARY**	The Board must call an extraordinary shareholders meeting on request of shareholders holding not less than ten percent of the paid-up capital (Section 169).	
		Section 169	1) The Board of directors of a company shall, on the requisition of such number of members of the company as is specified in sub-section (4), forthwith proceed duly to call an extraordinary general meeting of the company (4) The number of members entitled to requisition a meeting in regard to any matter shall be- (a) in the case of a company having a share capital, such member of them as hold at the date of the deposit of the requisition, not less than one-tenth of such of the paid-up capital of the company as at that date carries the right of the voting in regard to that matter; (b) in the case of a company not having a share capital, such number of them as have at the date of deposit of the requisition not less than one-tenth of the total voting power of all the members having at the said date a right to vote in regard to that matter.	Companies Act 1956
Mandatory dividend	0	**SUMMARY**	There is no specific law or regulation that requires mandatory dividend.	

India – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The relevant law is the Companies Act, 1956.	
Restrictions on going into reorganisation	1	**SUMMARY**	Any reorganisation prior to being implemented is required to be sanctioned by the Tribunal. The Tribunal only accord their sanction after the members and/or creditors have consented to such reorganisation (Section 391).	
		Section 391	Power to compromise or make arrangements with creditors and members (1) Where a compromise or arrangement is proposed: (a) between a company and its creditors or any class of them; or (b) between a company and its members or any class of them; the Tribunal may, on the application of the company or of any creditor or member of the company, or, in the case of a company which is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal directs; Provided that the Tribunal may dispense with the meeting of creditors of any class or members or any class of them or all the creditors or all the creditors of any class or all the members holding not less than one per cent of the voting power or members of any class holding one per cent of the total voting power, as the case may be, by an affidavit, confirm their consent to the compromise or arrangement: Provided further that the Tribunal may, at its discretion, waive the requirement of notices to be issued to the creditors or any class of them for such meeting so long as specific notices are sent to all the creditors and a general notice is issued by a publication in one English and one vernacular news paper, circulating at the place where the company's registered office is located.	Companies Act 1956
			(2) If a majority in number representing three-fourths in value of the creditors, or class of creditors, or members, or class of members, as the case may be, present and voting either in person or, where proxies are allowed under the rules made under section 643, by proxy, at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Tribunal, be binding on all the creditors, all the creditors of the class, all the members, or all the members of the class as the case may be, and also on the company, or in the case of a company which is being wound up, on the liquidator and contributories of the company.	
No automatic stay on assets	1	**SUMMARY**	There is no automatic stay on assets upon filing for reorganisation. This will be up to the Tribunal's discretion.	

		Section 391	Power to compromise or make arrangements with creditors and members […] (6) The Tribunal may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the company on such terms as the Tribunal thinks fit, until the application is finally disposed of.	Companies Act 1956
Secured creditors first (paid)	1	**SUMMARY**	Secured creditors and workmen's dues are ranked pari passu. Debts due to secured creditors and the workmen have a priority over all other debts in the distribution of the proceeds that result from the disposition of the assets of a company being wound up.	Companies Act 1956
		Section 529A	Overriding preferential payments (1) Notwithstanding anything contained in any other provision of this Act or any other law for the time being in force in the winding up of a company, - (a) workmen's dues; and (b) debts due to secured creditors to the extent such debts rank under clause (c) of the proviso to sub-section (1) of section 529 pari passu with such dues, shall be paid in priority to all other debts. (2) The debts payable under clause (a) and clause (b) of sub-section (1) shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.	
		Section 529	Application of insolvency rules in winding up of insolvent companies (1) In the winding up of an insolvent company, the same rules shall prevail and be observed with regard to- (a) debts provable; (b) the valuation of annuities and future and contingent liabilities; and (c) the respective rights of secured and unsecured creditors; as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent: Provided that the security of every secured creditor shall be deemed to be subject to a pari passu charge in favour of the workmen to the extent of the workmen's portion therein, and, where a secured creditor, instead of relinquishing his security and proving his debts opts to realise his security,- (a) the liquidator shall be entitled to represent the workmen and enforce such charge; (b) any amount realised by the liquidator by way of enforcement of such charge shall be applied rateably for the discharge of workmen's dues; and (c) so much of the debts due to such secured creditor as could not be realised by him by virtue of the foregoing provisions of this proviso or the amount of the workmen's portion in his security, whichever is less, shall rank part passu with the workmen's dues for the purposes of section 529A.	
Management replaced	0	**SUMMARY**	There is no specific provision in the law that the incumbent management be replaced in reorganisation.	

Legal reserve	0	**SUMMARY**	There is no specific provision for a minimum reserve for a company. However, if a company issues debentures, there is a specific provision for a "debenture redemption reserve".	
		Section 117C	Liability of a company to create security and debenture redemption reserve: (1) Where a company issues debentures after the commencement of this Act, it shall create a debenture redemption reserve for the redemption of such debentures, to which adequate amounts shall be credited, from out of its profits every year until such debentures are redeemed.	Companies Act 1956

Indonesia – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Shareholder protection measures are provided by Law of The Republic of Indonesia Number 1 of 1995 Concerning Limited Liability Companies (referred to as the Company Law 1995 hereafter).	
One share-one vote	1	**SUMMARY**	Indonesian Company Law provides for one share one vote (Article 72), unless otherwise stipulated in the Articles of Association. Different classes of shares are allowed (46).	
		Article 72	(1) Unless otherwise stipulated in the articles of association, each issued share carries a right to one vote. (2) The company's shares owned by the company do not carry any voting rights. (3) The shares of a parent company owned by its subsidiaries also do not carry any voting rights.	Company Law 1995
		Article 46	(1) The article of association shall stipulate 1 (one) or more classes of shares. (2) Each share of the same class gives their holders the same rights. (3) If there is more than 1 (one) class of shares, the articles of association shall stipulate 1 (one) class as common shares. (4) Besides the classes of shares as referred to in paragraph (3), the articles of association may stipulate 1 (one) or more classes of shares a. having special, conditional, limited or without voting rights; b. that after a certain period of time may be withdrawn or exchanged with shares of another class; c. that grants the holder with the right to receive cumulative or non-cumulative dividends; and/ or d. that grants the holder with the preferred right to receive dividends and the remaining assets of the company in liquidation prior to providing such right to the shareholders of another class of shares.	
Proxy by mail allowed	0	**SUMMARY**	Proxy voting in person is allowed (Article 71) in a GMS (General Meeting of Shareholders). Article 78 provides that a company may pass resolutions by submitting in writing proposals to be decided by all shareholders. However, resolutions are valid only if all shareholders agree in writing on the way by which the resolutions are adopted and the proposals are submitted. There is no provision in the law that mandates proxy voting by mail or email.	

		Article 71	(1) Shareholders with valid voting rights, either by themselves or by written proxies, are entitled to attend the GMS and exercise their voting rights. (2) In the voting, members of the board of directors and the commissioners and the company's employees may not serve as a proxy of a shareholder as referred to in paragraph (1).	Company Law 1995
		Article 78	(1) The company's articles of association may stipulate that a resolution of the GMS may be adopted by methods other than by way of a meeting. (2) If the articles of association stipulate the method as referred to in paragraph (1), the resolution may be adopted if all shareholders with valid voting rights have approved in writing the method and the resolution adopted.	
		Article 78 (Elucidation)	Paragraph (1) Resolutions of the GMS adopted through "other ways" are the resolutions taken by submitting in writing proposals to be decided to all shareholders, and these resolutions are valid only if all shareholders agree in writing the way by which the resolutions are adopted and the proposals are submitted. These other ways are not applicable for companies issuing bearer shares.	Elucidation On Company Law 1995
Shares not blocked before meeting	1	**SUMMARY**	There is no requirement in the Law for shareholders to deposit their shares before a general meeting.	
Cumulative voting / proportional representation	0	**SUMMARY**	There is no statutory requirement in the Company Law for companies to provide shareholders with rights of cumulative voting or proportional representation in the election of members of the boards of directors. A company may specify in its articles of association the procedures for electing a board of directors (Article 12).	
		Article 12	The articles of association shall at least contain: […] h. the procedures for election, appointment, replacement and discharge of members of the boards of directors and the commissioners; […]	Company Law 1995
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	The Company Law provides a mechanism for shareholders to step out of the company by requiring the company to purchase their shares when they object to certain fundamental changes that affect their rights as shareholders (Article 55).	
		Article 55	(1) If the acts of the company cause a shareholder or the company to incur losses, any shareholder may require the company to purchase his shares at a reasonable price if such shareholder does not approve the company acts, i.e.: a. the amendments to the articles of association; b. the sale, pledge, or exchange of a large portion or of all of the company's assets; or c. the merger, consolidation, or acquisition of the company. (2) […]	Company Law 1995

Preemptive right to new issues	1	**SUMMARY**	Preemptive rights are provided by the Company Law and the Rules of Bapepam (the Indonesian Securities Regulator).	
		Rule No. IX.D.1	Decision of the Chairman of Bapepam, No. Kep 26/PM/2003 dated 17 July 2003. 1. Definitions: (a). A Preemptive Right is a right of an existing shareholder to purchase new Securities, including shares, Convertible Securities and Warrants, before they are offered to others. Such rights must be transferable.; (b). A Warrant is a Security issued by a company giving the holder the right to subscribe to shares of the company at a specified price, 6 (six) months or more after the Securities are issued. 2. Whenever an Issuer that has made a Public Offering or a Public Company desires to increase its capital stock, including through the issuance of Warrants or Convertible Securities, it must give every shareholder the Preemptive Right to subscribe to the new Securities in proportion to their percentage of ownership.	RULE NUMBER IX.D.1 : PREEMPTIVE RIGHT, Decision of the Chairman of Bapepam, Number : Kep-26/PM/2003, Date : 17 July 2003
		Article 36	(1) Unless otherwise stipulated in the articles of association, any shares issued to increase capital must first be offered to the other shareholders in proportion to the shareholding ratio for the relevant class of shares. (2) In case a shareholder fails to use its right to purchase the offered shares as referred to in paragraph (1), after the lapse of 14 (fourteen) days as after the offer, the company shall firstly offer the shares to its employees prior to offering such shares to other party. (3) The provisions concerning offer of shares to employees as referred to in paragraph (2) shall be further regulated by Government Regulations.	Company Law 1995
% of share capital to call an ESM	10%	**SUMMARY**	The Company Law provides that one or more shareholders, who jointly hold no less than ten percent of the total amount of shares having valid voting rights, may demand an extraordinary general meeting.	
		Article 66	(1) The board of directors holds the annual GMS and is entitled to hold other GMS in the interests of the company. (2) The other GMS as referred to in paragraph (1) may be held upon the request of 1 (one) or more shareholders who jointly represent 1/10 (one tenth) of the total amount of shares having valid voting rights, or a lesser number as may be stipulated in the company's articles of association. (3) The request as referred to in paragraph (2) shall be submitted to the boards of directors or the commissioners by registered mail and must state the reasons therefor. (4) The GMS as referred to in paragraph (2) may discuss only matters relating to the reasons referred to in paragraph (3).	Company Law 1995
Mandatory dividend	0	**SUMMARY**	The Company Law requires that a company should allocate a certain amount of its net profits as reserves, until the reserves reach no less than twenty percent of the issued capital (Article 61). It further provides that, unless otherwise stipulated by the GMS, all net profits after being deducted by the allocation for reserves shall be distributed to shareholders as dividends (Article 62). However, there is no provision in the law for mandatory dividend.	

		Article 61	(1) In each financial year, the company must allocate a certain amount of its net profits as reserves. (2) The allocation of net profits referred to in paragraph (1) is created until the amount of the reserves is not less than 20% (twenty percent) of the issued capital. (3) The reserves referred to in paragraph (1) that have not reached the amount as stipulated in paragraph (2) may only be used to cover losses that cannot be covered by other reserves. (4) The provisions concerning the allocation of net profits for reserves and the utilization thereof shall be further regulated by Government Regulations.	Company Law 1995
		Article 62	(1) The utilization of net profits including the determination of the allocation amounts for the reserve fund referred to in Article 61 paragraph (1) shall be resolved by the GMS. (2) Unless otherwise stipulated by the GMS, all net profits after being deducted by the allocation for reserves referred to in Article 61 paragraph (1) shall be distributed to shareholders as dividends. (3) After the lapse of 5 (five) years, the uncollected dividends must be transferred to a reserve account specifically established for such purpose. (4) Collection of dividends as referred to in paragraph (3) shall be stipulated in the articles of association.	

Indonesia – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Reorganisation is covered in the Bankruptcy Law (Chapter II The Moratorium on Debt Repayment). The Indonesian government amended its bankruptcy laws in 1998 and established a new commercial court to deal with bankruptcy cases. More recently, in September 2004, a new law was passed prohibiting creditors from filing bankruptcy suits against solvent banks and insurance companies. The legislation will benefit foreign investors and protect them from being declared bankrupt by courts, despite solvency, which has befallen some of them upon the filing of vindictive petitions by Indonesian creditors. Rather than permitting commercial court bankruptcy petitions to be filed by any creditor, the new law restricts such actions. Due to the revision, now commercial court bankruptcy petitions against insurance companies and state-owned utility companies can only be filed by the finance minister, while petitions against banks can only be filed by the attorney general and the central bank. Creditor rights during reorganisation and bankruptcy are provided in the Bankruptcy Law.	
Restrictions on going into reorganisation	1	**SUMMARY**	A debtor in financial difficulty can, at any time, petition for a Moratorium on Debt Repayment (MoDP) and the Bankruptcy Law provides that the court must immediately grant temporary moratorium on debt repayment (Article 214). However, the granting of a permanent MoDP requires the sanction of the court on the basis of the approval of more than one half of the unsecured creditors (Article 217).	
		Article 212	Debtors who are unable, or expect that they will be unable, to continue paying those debts which have matured and must be paid, may request a moratorium on the repayment of their debts, with the general intention of presenting a reconciliation proposal that includes an offer to pay all or part of their debts to unsecured creditors.	Bankruptcy Law 1998
		Article 214	1. The petition and its attachments must be made available at the Office of the Clerk of the Court, so that they may be perused free of charge by the public, in particular by the parties concerned. 2. The court must immediately grant temporary moratorium on debt repayment and must appoint a Supervising Judge from among the Court Judges, and appoint 1 (one) or more trustees who, together with the debtor, shall manage the debtor's assets. […]	

		Article 217	[...] (5). The granting of a permanent moratorium on debt repayment and the extension thereof shall be determined by the Court on the basis of the approval of more than 1/2 (one half) of the unsecured creditors whose rights are admitted or provisionally admitted present who represent at least 2/3 (two thirds) of all claims admitted or provisionally admitted of the unsecured creditors or their proxies present at such session, and any dispute which arises between the trustee and the creditors concerning the voting rights of the creditors must be decided by the Supervising Judge. […]	
No automatic stay on assets	1	**SUMMARY**	The Bankruptcy Law provides that secured creditors can enforce their rights even when a MoDP is in effect.	
		Article 230	1. With due attention to the provisions of Article 231A, a moratorium on debt repayments shall not apply in respect of: a. claims guaranteed by pledge, security rights, collateral right on other property, or privileged claims in respect of certain goods belonging to the debtor; b. claims for payment for maintenance, supervision or training that must be paid, and the Supervising Judge must determine the amount of such claims collected prior to the moratorium on debt repayment which do not constitute claims with the right to be prioritized. 2. In the event that assets which are made as collateral by pledge, security rights and collateral rights to other assets are insufficient to secure claims, then the creditors secured by such collateral shall acquire rights as unsecured creditors, including the right to vote while the moratorium on debt repayment is in effect.	Bankruptcy Law 1998
		Article 231A	The provision intended in Article 56A shall apply mutatis mutandis in respect of the exercise of creditors' rights as intended in Article 56 paragraph (1) and privileged creditors, with the provision that the postponement shall apply while the moratorium on debt repayment is in effect.	
		Article 56A	1. The creditor's execution right as intended in Article 56 paragraph (1) and the right of a third party to claim his assets which are under the control of the bankrupt debtor or the liquidator shall be deferred for a period of not more than 90 (ninety) days from the date the decision on the bankruptcy is determined. 2. The deferment as intended in paragraph (1) shall not apply to claims of creditors which are secured by cash and rights of creditors to reconcile debts. […]	
Secured creditors first (paid)	1	**SUMMARY**	Secured Creditors rank higher in priority to other creditors to the extent that the Secured Creditors would have prior entitlement only to the assets being used as security. If the claim of such Secured Lenders is not covered by the realization value of the security, unsettled claim would be considered unsecured (Article 230).	

		Article 56	1. Bearing in mind the provisions of Article 56A, any creditor holding security rights, pledge or collateral right on other property, may execute his rights as if no bankruptcy occurred. […]	Bankruptcy Law 1998
		Article 56A	1. The creditor's execution right as intended in Article 56 paragraph (1) and the right of a third party to claim his assets which are under the control of the bankrupt debtor or the liquidator shall be deferred for a period of not more than 90 (ninety) days from the date the decision on the bankruptcy is determined. 2. The deferment as intended in paragraph (1) shall not apply to claims of creditors which are secured by cash and rights of creditors to reconcile debts. […]	
		Article 230	1. With due attention to the provisions of Article 231A, a moratorium on debt repayments shall not apply in respect of: a. claims guaranteed by pledge, security rights, collateral right on other property, or privileged claims in respect of certain goods belonging to the debtor; b. claims for payment for maintenance, supervision or training that must be paid, and the Supervising Judge must determine the amount of such claims collected prior to the moratorium on debt repayment which do not constitute claims with the right to be prioritized. 2. In the event that assets which are made as collateral by pledge, security rights and collateral rights to other assets are insufficient to secure claims, then the creditors secured by such collateral shall acquire rights as unsecured creditors, including the right to vote while the moratorium on debt repayment is in effect.	
Management replaced	1	**SUMMARY**	On filing for MoDP, the Court will appoint one or more trustees and a supervisory judge. The trustee(s), together with the debtor, will engage in the management of the debtor's assets.	
		Article 214	1. The petition and its attachments must be made available at the Office of the Clerk of the Court, so that they may be perused free of charge by the public, in particular by the parties concerned. 2. The court must immediately grant temporary moratorium on debt repayment and must appoint a Supervising Judge from among the Court Judges, and appoint 1 (one) or more trustees who, together with the debtor, shall manage the debtor's assets.	Bankruptcy Law 1998
Legal reserve	20%	**SUMMARY**	The Company Law provides that a company should allocate a certain amount of its net profits as reserves, until the reserves reach no less than twenty percent of the issued capital (Article 61).	

		Article 61	(1) In each financial year, the company must allocate a certain amount of its net profits as reserves. (2) The allocation of net profits referred to in paragraph (1) is created until the amount of the reserves is not less than 20% (twenty percent) of the issued capital. (3) The reserves referred to in paragraph (1) that have not reached the amount as stipulated in paragraph (2) may only be used to cover losses that cannot be covered by other reserves. (4) The provisions concerning the allocation of net profits for reserves and the utilization thereof shall be further regulated by Government Regulations.	Company Law 1995
		Article 62	(1) The utilization of net profits including the determination of the allocation amounts for the reserve fund referred to in Article 61 paragraph (1) shall be resolved by the GMS. (2) Unless otherwise stipulated by the GMS, all net profits after being deducted by the allocation for reserves referred to in Article 61 paragraph (1) shall be distributed to shareholders as dividends. (3) After the lapse of 5 (five) years, the uncollected dividends must be transferred to a reserve account specifically established for such purpose. (4) Collection of dividends as referred to in paragraph (3) shall be stipulated in the articles of association.	

Israel – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		On April 19, 1999, the Knesset approved the Companies Law-1999 (the "Law"), which updated and amended Israel's corporate law in a number of significant respects. The Law, which generally replaced the 1983 Companies Ordinance, became effective as of February 1, 2000. It attempted to modernise and streamline Israeli corporate law, which had not undergone a full-scale reform since the British Mandate, and moved corporate governance away from a British system to a more American one. The laws used were the Companies Law 5759-1999 and the November 2002 update to the Companies Regulations, obtained from Clearview Publications Ltd. Several amendments have been passed to the Companies Law in 2005, which came into effect in April 2006, some of which have affected the proxy by mail allowance.	
One share-one vote	0	**SUMMARY**	Israel does not have one share-one vote applicable to all companies. The one share-one vote rule is, however, applicable to publicly traded companies, which are the majority of Israeli companies.	
		Section 82	Freedom to differentiate 82. (a) In its by-laws a company may prescribe different voting rights for different categories of shares. (b) The provision of subsection (a) shall not derogate from the provision of any other enactment. (c) If the company did not prescribe different voting rights in its by-laws, then each share shall have one vote.	Companies Law

		Section 46B	(a) A stock exchange shall not register for trade thereon shares or securities convertible into shares, unless it is satisfied that the following conditions have been met: (1) in regard to a company the shares of which are registered for trade for the first time - the share capital of the company shall consist of one class of shares only conferring equal voting rights in proportion to their nominal value; this condition shall not apply to special State shares; nothing in this provision shall be construed as prohibiting a company from issuing preference shares, provided that one year has lapsed since the shares were first registered for trade; (2) in regard to a registered company as defined in paragraph 46(a)(4) – any additional issue shall be in regard to the shares most preferred in regard to voting rights; nothing in this provision shall be construed as prohibiting a registered company, the share capital of which consists solely of shares permitted under paragraph (1), from issuing preference shares starting from January 1, 1992 or at the lapse of one year from the time its share capital consisted solely of shares as aforesaid, according to the later of the two. (b) In this paragraph – "*Preference shares*" - shares conferring a preferred right to dividends and not conferring voting rights; "*Special State shares*" - shares which the government has decided are necessary for purposes of protecting a vital interest, and which confer special rights to the government as provided by the said decision prior to the registration for trade thereof.	Securities Law 5728-1968
Proxy by mail allowed	1	**SUMMARY**	Sections 83 and 87 of the Companies Law allow voting by post.	
		Section 83	Manner of voting at meeting 83. (a) A share holder in a public company may vote in person or through a proxy, and also a vote by ballot under the provisions of Article G [=Section 87].	Companies Law 5759-1999

		[Article G] Section 87	(a) In a public company, shareholders may vote in the general meeting and in a class meeting by means of a voting paper in which the shareholder indicates how he votes on resolutions relating to the following matters: (1) appointment and removal of directors; (2) approval acts or transactions requiring the approval of the general meeting pursuant to the provisions of sections 255 and 268 to 275; (3) approval of a merger pursuant to section 320; (4) any other matter in respect of which there is a provision in the articles of association or thereunder to the effect that decisions of the general meeting may also be passed by means of a voting paper; (5) other matters prescribed by the Minister pursuant to section 89. (b) A voting paper shall be sent by the company to every shareholder; a shareholder may indicate his vote on the voting paper and send it to the company. (c) A voting paper on which a shareholder has indicated his vote and which has reached the company prior to the last day prescribed for such shall be considered as presence at the meeting for the purposes of the existence of a quorum as provided in section 78. (d) A voting paper received by the company as provided in subsection (c) regarding a particular matter in respect of which no vote was held at the general meeting shall be considered as an abstention in the vote at such general meeting in respect of a resolution to hold an adjourned meeting pursuant to the provisions of section 74, and shall be counted at the adjourned meeting to be held pursuant to the provisions of sections 74 or 79.	
Shares not blocked before meeting	1	**SUMMARY**	There is no reference to this in the laws.	
Cumulative voting / proportional representation	0	**SUMMARY**	There is no reference to cumulative voting or proportional representation in the Companies Law. Sections 59 and 85 indicate that directors are voted in by direct majority voting. For public companies, the approval of a combined CEO-Chairman of the Board (Section 121 c), the appointment of independent directors (Section 239 b), as well as certain related-party transactions, including remuneration of Board members, require the approval of a special majority of disinterested shareholders, thus giving greater weight to minority shareholders.	
		Section 59	Appointment of Directors The annual General Meeting shall appoint the Directors, unless there is a different provision in the by-laws.	Companies Law 5759-1999
		Section 85	Majority at General Meeting Decisions of a General Meeting shall be adopted by an ordinary majority, unless a different majority is prescribed by Law or by the by-laws.	

		Section 121 (c)	Notwithstanding the provisions of section 95, the general meeting of a public company may resolve that for a period of no more than three years from the date of passing the resolution to such effect, the chairman of the board of directors may be authorized to fulfill the role of general manager, or to exercise the powers of the general manager, provided that in counting the votes at the general meeting, the majority shall include at least two-thirds of the shareholders who are not holders of control in the company or their representatives present at the vote; abstaining votes shall not be taken into account in counting the votes of the said shareholders.	
		Section 239 (b)	The outside directors shall be appointed by the general meeting, provided that one of the following conditions prevails: 1) in counting the votes of the majority at the general meeting at least one-third of all the votes of shareholders who are not holders of control in the company or representatives of such persons, present at the time of voting are included; in counting the total votes of such shareholders, abstentions shall not be taken into account; 2) the total number of votes opposing the appointment from among the shareholders referred to in paragraph (1) shall be no greater than one percent of the total voting rights in the company.	
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Companies Law section 191 grants aggrieved shareholders a method whereby they can get judicial redress. Furthermore, section 191 indicates that in some cases the company might have to repurchase shares of a shareholder discriminated against. Sections 194-206 establish the right and stipulate the conditions for shareholder and directors to initiate derivative actions. Amendment 3 to the Companies Law has improved the accessibility of this remedy to shareholders, by significantly lowering the costs to be sustained by plaintiffs undertaking derivative actions. The company, rather than the plaintiff, is in fact responsible for the majority of these costs. The Class Action Law of 2006 regulates class actions of securities holders (including investors in shares, bonds, mutual fund units and derivatives). This law replaces Sections 207-218 of the Companies Law, with the exception of Section 209, which stipulates the Israel Securities Authority's capacity to assist financially securities holders in class actions. Any cause for individual action can be a cause for class action as well, including violations of securities law and violation of fiduciary duties of corporate officers and controlling shareholders stipulated in the Companies Law.	
		Section 191	Rights in case of discrimination 191. (a) If any of the affairs of the company were conducted in a manner that discriminates against some or all of its shareholders or if there is substantive suspicion that they will be so conducted, then the Court may - on application of a shareholder - issue instructions it deems appropriate in order to correct or prevent the discriminatory treatment, including instructions according to which the company's affairs will be conducted in the future, or instructions to the company's shareholders under which they or the company - subject to the provisions of section 301 - shall acquire some of its shares.	Companies Law 5759-1999

		Section 209	(a) A plaintiff seeking to sue in a representative action deriving from a connection to a security of a public company may request the Securities Authority to bear his costs. (b) Where the Securities Authority is convinced that the action is in the interests of the public and that there is a reasonable chance that the court will approve it as a representative action, the Authority may bear the plaintiff's costs, in such sum and on such conditions as it shall prescribe. (c) Where the court rules in favor of the plaintiff, it may order in its judgment indemnification of the Securities Authority for its costs.	
		Section 194	(a) Any shareholder and any director of a company (in this Chapter "plaintiff") may file a derivative action if the provisions of this Article prevail. (b) Any person wishing to file a derivative action shall address the company in writing, demanding that it exhaust its rights by instituting an action (in this Chapter "a demand"). (c) The demand shall be presented to the chairman of the board of directors of the company, and it shall set out in detail the facts giving rise to the cause of action and the reasons for its submission.	
		Section 199	Where the court has approved a derivative action, it may: (1) give instructions as to the manner and dates of payment of court fees, including the division of payment of the fee between the plaintiff and the company; (2) order the company to pay the plaintiff such sums as it may prescribe to cover the plaintiff's costs or to deposit a security for such payment; (3) require the company or the plaintiff to deposit security to cover the defendant's costs.	
Preemptive right to new issues	0	**SUMMARY**	The AGM of a public company can increase or decrease share capital (sections 57, 286, 287), but preemptive rights are only guaranteed in private companies (290). Nothing in the laws prevents public companies from raising capital through rights offerings.	
		Section 57	Powers vested in the General Meeting The company's decisions on the following matters shall be adopted by the General Meeting: (6) the increase and reduction of the registered share capital, in accordance with the provisions of sections 286 and 287;	Companies Law 5759-1999
		Section 286	Article Two: Registered Share Capital Increasing the registered share capital 286. The General Meeting may increase the company's registered share capital by categories of shares, as it shall prescribe.	
		Section 287	Cancellation of registered share capital The General Meeting may cancel registered share capital that has not yet been allocated, on condition that there are no undertakings of the company - including conditional undertakings - to allocate the shares.	

		Section 290	Entitlement to participate in future issues (a) In a private company, the issued capital of which consists of one category of shares, each shareholder shall be offered shares in proportion to his proportion of the issued share capital; the Board of Directors may offer to another person the shares a shareholder refused to acquire or to the offer of which he did not respond until the last date set therefore in the offer, all if there are no different provisions in the by-laws.	
% of share capital to call an ESM	5%	**SUMMARY**	Holders of five percent of the share capital can call an extraordinary meeting.	
		Section 63	Convening an Extraordinary Meeting (b) The Board of Directors of a public company shall convene an Extraordinary Meeting at its own decision, and also on the demand of each of the following: (1) two Directors or one fourth of the serving Directors; (2) one or more shareholders who have at least 5% of the issued share capital and at least 1% of the voting rights in the company, or one or more shareholders who have at least 5% of the voting rights in the company.	Companies Law 5759-1999
Mandatory dividend	0	**SUMMARY**	There is no reference to a mandatory dividend in the laws relating to the dividend. However, all shareholders are entitled to dividends, should the company decide to distribute them (Section 306). This provision of the Companies Law also ensures that shareholders receive dividends commensurate with capital contributions, unless stipulated otherwise in the by-laws. One of the qualifying conditions for Real Estate Investment Trusts (REITs), regulated in the Income Tax Ordinance, is that they distribute minimum dividends of their taxable income.	
		Section 306	(a) A shareholder shall have the right to receive a dividend, or bonus shares, if the company passes a resolution to that effect. (b) Where there are shares in the capital of the company with different nominal values, dividends or bonus shares shall be distributed relative to the nominal value of each share, unless otherwise provided in the articles of association.	
		Section 307	Decision to distribute dividend A company's decision to distribute dividends shall be adopted by the company's Board of Directors, but a company may prescribe in its by-laws that the decision be adopted in one of the following two manners: (1) at the General Meeting, after the Board of Directors's recommendation was brought before it; the meeting may accept the recommendation or reduce the amount, but it must not increase it; (2) in the company's Board of Directors, after the General Meeting set the maximum amount of the distribution; (3) in some other manner prescribed in the by-laws, on condition that the Board of Directors was given a suitable opportunity to determine - before the distribution is made - that the distribution is not a prohibited distribution.	Companies Law 5759-1999

		Section 64A9	64A9 (A) The taxable income of a REIT will be transferred to the shareholders as stipulated in subsections (1) or (2), as applicable, on the day designated in them: (1) At least 90% of the REIT's taxable income, excluding capital gains from the sale of commercial real estate, plus the exempt income and minus non-deductible expenses, no later than the 30 April of the year following the year in which the income was generated or accrued; (2) Capital gains accrued to the REIT from the sale of commercial property – no later than 12 months from the date of the sale of the property (…) Should the REIT distribute said income as stipulated in sub-section (1) above, the amount of distributed income representing depreciation will be deducted from profits eligible for distribution to shareholders according to the provisions of the Companies Laws as well as from the capital gains derived from the sale of the property.	Income Tax Ordinance

Israel – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Creditor rights in Israel are defined in the Companies Law and the Bankruptcy Ordinance. Liquidation proceeding are stipulated in the Companies Ordinance, as amended in 1983. Creditor rights within the context of liquidation proceedings (both voluntary, as a result of insolvency, and court-ordered) are addressed in detail. A company is prohibited from embarking on voluntary liquidation without the involvement of its creditors. While consideration of creditor rights is not mandatory according to the Companies Law, companies are entitled to take the interest of creditors and other stakeholders into consideration within the framework of maximizing shareholder welfare. In addition, the Companies Law stipulates that companies cannot distribute profits nor can they approve a merger if such distribution/merger potentially compromises the ability of the company to meet current and anticipated liabilities. The Law also entitles courts under certain circumstances to ensure creditor rights by making shareholders accountable for corporate debts. They may order the lifting of the corporate veil to either assess corporate liabilities to shareholders or delay payments to shareholders until creditors are repaid. The Financial Assets Agreements Law 5766-2006, enacted in 2006, delineates rights for creditors within the framework of master agreements involving securities repurchase transactions.	
Restrictions on going into reorganisation	1	**SUMMARY**	The rules pertaining to compromise or arrangement say that seventy five percent of creditors or shareholders, as the case may be, have to agree to the compromise or arrangement.	
		Section 350	Chapter Three: Compromise or arrangement Authority to make compromise or arrangement 350. (a) If a compromise or arrangement was proposed between a company and its creditors or shareholders, or between it and a certain category of them, then the Court may - on the application by the company, a creditor or a shareholder, or by the liquidator, if the company is in liquidation - order that a General Meeting be called of those creditors or those shareholders, as the case may be, in the manner which the Court shall prescribe.	Companies Law 5759-1999
			[...] (i) If most of those present and voting at a meeting said in subsection (a), who jointly have three fourths of the value represented at the vote, agreed to a compromise or arrangement, and if the Court approved the compromise or arrangement, then that obligates the company and all creditors or shareholders or the category thereof, as the case may be, and in the case of a liquidation - the liquidator and each contributory.	

No automatic stay on assets	1	**SUMMARY**	The rules pertaining to compromise or arrangement only allow for a stay on assets with the court's permission.	
		Section 350	Chapter Three: Compromise or arrangement Authority to make compromise or arrangement 350. (a) If a compromise or arrangement was proposed between a company and its creditors or shareholders, or between it and a certain category of them, then the Court may - on the application by the company, a creditor or a shareholder, or by the liquidator, if the company is in liquidation - order that a General Meeting be called of those creditors or those shareholders, as the case may be, in the manner which the Court shall prescribe. [...] (b) The Court, to which the application for the compromise or arrangement said in subsection (a) (in this Chapter - the plan) was submitted may - if it is satisfied that it will help to concretize or approve a plan for the rehabilitation of the company - make an order, according to which - during a period of not more than nine months - it will be possible to continue or to initiate any proceeding against the company only with the Court's permission and on conditions which it shall prescribe (in this Chapter: freeze on proceedings order).	Companies Law 5759-1999
Secured creditors first (paid)	1	**SUMMARY**	Section 353 of the Companies Law says that insolvency follows the bankruptcy laws. Section eight and Article Three of the Second Schedule of the Bankruptcy Ordinance 5740-1980 state that secured creditors can realize their surety, and if this does not cover the debt the remaining is considered unsecured debt - wages etc. then have priority in the order of payout for other debts, as stated in section 354 of the Companies Law. Section 20 of the Bankruptcy Ordinance states that a secured creditor can realise his security without hindrance from the Official Receiver.	
		Section 353	Applicability of bankruptcy laws to winding up because of insolvency 353. In an insolvent company, procedure shall follow the bankruptcy laws applicable to the assets of a person proclaimed to be a bankrupt, as far as connected to the rights of secured and unsecured creditors, to debts that can be sued, to the valuation of annuities and of future and contingent obligations, and to the receipt of dividends.	Companies Law 5759-1999
		Section 8	Petition by secured creditor of the Bankruptcy Ordinance If the petitioning creditor is a secured creditor, then he shall either state in his petition that he is willing to give up his security for the creditors' benefit if the debtor is adjudged bankrupt, or give an estimate of the value of the security; having given a said estimate, he may be admitted as a petitioning creditor for the balance of debt due to him, after deduction of the value so estimated, as if he were an unsecured creditor.	Bankruptcy Ordinance 5740-1980
		Article Three Second Schedule	Claims by Secured Creditors 14. If a secured creditor realized his surety, then he may claim the balance of his debt in excess of the net amount realized. 15. If a secured creditor surrendered his surety to the Official Receiver or to the trustee to the general benefit of all creditors, then he may claim his entire debt.	

		Section 20	Effect of receiving order (a) When a receiving order has been made, the Official Receiver attached to the Court shall become the receiver of the debtor's assets, and thereafter - except as otherwise provided by this Ordinance - no creditor shall have a remedy against the debtor in respect of a claimable debt and shall not initiate any action or other legal proceedings, except with the Court's permission and on terms which it may see fit to impose. (b) The provisions of this section shall not derogate from a secured creditor's power to realize his security or to deal with it in any other manner.	
		Section 354	Preferred debts 354. (a) In a winding up the debts specified below shall have priority over all other debts, in the following order of priority: (1) (a) wages, as defined in the Wage Protection Law 5718-1958, due to an employee in respect of the period before the determining date, provided that the total wage which has priority does not exceed IS 36,370; (b) if compensation is given after the beginning of the tax year, the amount said in subparagraph (a) shall be increased at the rate of the compensation, from the day on which that compensation begins; that said increase shall be in effect until the following December 31; in this context, "compensation" and "rate of compensation", as defined in the National Insurance Law (Consolidated Version) 5728-1968 (hereinafter: the insurance law); (2) any amount deducted by the company from wages, under the Income Tax Ordinance, and not paid to the Assessing Officer; [...]	Companies Law 5759-1999
Management replaced	0	**SUMMARY**	The chapter on Compromise or Arrangement does not mention the management being replaced during this process. However, Regulation 14 (a) (1) of the Companies Law Regulations (Request for Compromise or Arrangement), 5772 – 2002 stipulates that a court can, at any point after an application for a stay, either under its own initiative or in response to a request by the applicant for the stay, appoint an official that will be granted all the authority and obligations set by the court, including, *inter alia,* managing the company or supervising its management. Various sections of the Companies Ordinance, as amended in 1983, address the question of management replacement within the framework of liquidation proceedings.	
Legal reserve	0	**SUMMARY**	There is no reference to this in the Companies Law. The various laws and regulations governing financial institutions and financial intermediaries do have minimal capital requirements.	

Jordan – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The main pieces of legislation governing corporate governance in Jordan, a civil law country, are: • The Companies Law (no. 22/1997), published in the Official Gazette No. 4204 dated 15/5/97. A version is available from the website of the Companies Control Department (www.ccd.gov.jo/legislation_law.shtm). The Companies Law is being amended to introduce matters related to corporate governance, liquidation and bankruptcy.The Securities Law (no. 76/2002). • The rules and regulations of the stock exchange (see www.ammanstockex.com). • The Banks Law (see www.cbj.gov.jo >> 'Laws and Regulations'). • The Insurance Supervision Law (no. 33/1999). • The Privatisation Law (no. 25/2000; see www.epc.gov.jo/law.html) The Jordanian Securities Commission is regulated by the Securities Law (no. 76/2002; see www.jsc.gov.jo/SecuritiesLaw.asp). The Commission is tasked with the following (from Article 8 of Law no. 76/2002): • Protecting investors in securities; • Regulating and developing the capital market to ensure fairness, efficiency and transparency; and • Protecting the capital market from the risks that might face it. In order to achieve this it assumes the following main responsibilities and authorities: • Regulating and monitoring the issuance of securities and dealing therein. • Insuring full and accurate disclosure by Issuers of the material information necessary to investors and relevant to the public issuance of securities. • Regulating and monitoring disclosure including the periodic reports prepared by Issuers. • Regulating licensing and registration, and monitoring the activities of Licensed and Registered Persons in the capital market. • Regulating and monitoring the Stock Exchange and Trading Markets in Securities. • Regulating and monitoring the Securities Depository Center. • Regulating Mutual Funds and Investment Companies. This report is written considering both public shareholding and private shareholding companies. The latter type of company was established in 2002 and can issue different types of securities (to be determined in the memorandum of association).	

			The Amman Stock Exchange has two markets, called the First Market and the Second Market. Usually public shareholding companies enter in the Second Market and then, as they either establish a track record or become larger, they are promoted to the First Market. So, generally speaking, blue chip companies trade in the First Market, with less liquid ones on the Second Market. Companies can fall from the First to Second Market. The Jordan Securities Commission has prepared a draft Corporate Governance Code (only available in Arabic), currently in the process of public consultation. The code will address new concepts and issues as: • Requesting listed companies to use cumulative voting rights in electing directors, • Independent directors, • Related party transactions, • Stakeholders interests and • Pre-emptive rights are automatically the right of existing stock holders	
One share-one vote	0	**SUMMARY**	Article 178 of the Companies Law, which refers to public shareholding companies, says that every shareholder may vote on resolutions '…each according to the number of shares he represents'. However, this only applies to listed companies; Article (68) bis of the Companies Law deals with private shareholding companies and allows them to issue many kinds of shares differing in value, voting rights, and profits.	
		Article 178	Every shareholder in the Public Shareholding Company who was registered in the Company register three days prior to the date set for any meeting of the General Assembly shall have the right to participate in discussing issues presented thereto and to vote on the decisions adopted by the Assembly regarding these issues, each according to the number of shares he represents in person and by proxy.	Companies Law
		Article 68 bis	a) Subject to any provisions in this part, the Company may, according to its Memorandum of Association, issue various types and categories of shares which differ in their terms of nominal value, voting force and method of profit and loss distribution among shareholders. These shares also differ in respect of their rights and priorities upon liquidation and their aptitude to be converted into other types of shares besides their related rights, advantages, priorities and other restrictions, provided that these be implied or summarized in the shares' certificates if found.	
Proxy by mail allowed	0	**SUMMARY**	A member (shareholder) can send his proxy form, authorising another person to vote on his behalf, in by mail, but the proxy has to be present when voting. Proxy voting by mail is not allowed.	
		Article 178	Every shareholder in the Public Shareholding Company who was registered in the Company register three days prior to the date set for any meeting of the General Assembly shall have the right to participate in discussing issues presented thereto and to vote on the decisions adopted by the Assembly regarding these issues, each according to the number of shares he represents in person and by proxy.	Companies Law

		Article 179	a) A shareholder in a Public Shareholding Company shall have the right to give a proxy to another shareholder to attend any meeting of the Company General Assembly. The proxy shall be in writing, on a special form prepared by the Company Board of Directors for this purpose with the approval of the Controller. Proxies must be deposited at the Company headquarters at least three days before the date set for the meeting of the General Assembly. The Controller, or any person delegated by him, shall examine the said proxies. The shareholder may also give a proxy to another person by virtue of a judicial power of attorney to attend the meeting on his behalf.	
Shares not blocked before meeting	1	**SUMMARY**	There is no reference in the Companies Law that states or implies that the shares are blocked before a meeting. Article 12C of the Listing Rules issued by the Amman Stock Exchange stipulates, however, that trading in a company is suspended on the day of a general assembly meeting, whether ordinary or extraordinary.	
		Listing Rules Article 12C	Listing of Company shares shall be suspended on the date of the General Assembly meeting of the Company.	Listing laws of the Amman Stock Exchange
Cumulative voting / proportional representation	0	**SUMMARY**	Articles 132 and 178 (above) indicate that cumulative voting is not allowed. Article 133 says that the board members must own a certain number of shares to be eligible for the board, and that the company in its Memorandum of Association may decide upon this number, thereby avoiding proportional representation. A contact in Jordan (Samir Jardat of the Securities Depository Centre www.sdc.com.jo) says, when talking about proportional representation, 'Nothing in the law deals with the issue'.	
		Article 132	a) The management of a Public Shareholding Company is entrusted to a Board of Directors whose members shall not be less than three and not more than thirteen as determined by the Company Memorandum of Association. The members of the Board shall be elected by the Company General Assembly by means of a secret ballot in accordance with the provisions of this Law. The Board of Directors shall undertake the management of the Company for four years as from the date of its election. b) The Board of Directors shall invite the Company General Assembly to meet during the last three months of its term, in order to elect a new Board of Directors to replace it as of the date of its election, provided that the Board continues to manage the affairs of the Company until the new Board is elected if its election is delayed for any reason whatsoever.	Companies Law
		Article 133	a) The Public Shareholding Company Memorandum of Association shall specify the number of shares which must be held by a member to qualify for nomination as a member of the Board of Directors, and to retain his position as a member therein. Those shares should not be attached, mortgaged or under any other lien which prevents their unrestricted disposal. The restriction provided for in Article (100) of this Law, regarding prohibiting the disposal of founding shares, shall be excluded from this provision.	

Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Concerning judicial venue, articles 157-161 allow a shareholder (amongst other people) to file a case in court if the company is managed negligently, if employees disclose secrets etc. Article 160 provides for judicial venue. Article 183 allows meetings to be contested in court, and according to the Amman Stock Exchange, any aggrieved person may contest them to the court. Article 275 allows shareholders with more than fifteen percent of the shares the right to get the controller to check the books of a company. Shareholders holding ten percent or less of a company do not have the right to get the controller to check the books of a company, but a single shareholder can refer decisions of the board of directors to the courts. In the Companies Law, there is no reference to the obligatory share repurchase of oppressed minorities desiring to step out of a company in objection of certain fundamental changes, such as mergers, assets dispositions, and changes in the articles of incorporation.	
		Article 157	a) The chairman and the members of the Public Shareholding Company Board of Directors shall be held responsible towards the Company, shareholders and others for every violation committed by any of them or all of them of the laws and regulations in force and of the Company Memorandum of Association and for any error in the management of the Company. The consent of the General Assembly for absolving the Board from its responsibility shall not prevent legal recourse against the chairman and the Board of Directors. b) The liability stipulated in paragraph (a) of this Article shall be either personal, borne by one or more member of the Board of Directors, or collective, borne by the chairman and the members of the Board of Directors, and in such a case, they shall be jointly and severally liable for compensating the damage that results from the said violation or mistake. A member who has already objected to the decision containing the violation or mistake in the minutes of the meeting shall not be liable for such compensation. In all cases, the claim regarding this responsibility shall cease after the lapse of five years from the date the General Assembly meeting during which the Company annual balance sheet and its final accounts were approved.	Companies Law
		Article 158	The Public Shareholding Company chairman, members of the Board of Directors, its general manager or any of its employees, shall be prohibited from disclosing to any shareholder in the Company or to another, any information or data related to the Company and considered of a confidential nature, and which same acquired in their official capacity in the Company, or as a result of undertaking any business therefore or therein, at the risk of dismissal and being claimed for compensation for the damage that has been incurred by the Company. Information permitted to be published per current laws and regulations shall be excluded from the aforementioned. The General Assembly approval to release the chairman and members of the Board of Directors from this responsibility shall not absolve same from responsibility.	

		Article 159	The Public Shareholding Company chairman and the Board of Directors' members shall be jointly and severally responsible towards shareholders for any default or negligence in the management of the Company. However, upon the liquidation of the Company and the appearance of a deficit in its assets, in a manner that renders the Company unable to meet its obligations, and should the reason for such a deficit be the default or negligence of the chairman and members of the Board or its general manager or auditors, the Court shall have the right to hold any of the aforesaid persons liable for the debts of the Company in full or in part, as the case may be. The Court shall determine the amounts the said persons are liable for and whether they are jointly liable in the loss or not.	Companies Law
		Article 160	The Controller, the Company and any shareholder therein shall have the right to file a case with the Court in accordance with the provisions of Articles 157, 158 and 159 of this Law.	
		Article 183	a) Decisions issued by the General Assembly of a Public Shareholding Company at any of its meetings that convene with the presence of a legal quorum, shall be binding upon the Board of Directors and all shareholders, whether they attended the said meeting or not, provided that these decisions have been adopted in accordance with the provisions of this Law and the regulations issued in pursuance. b) The Court shall have jurisdiction to look into and settle any case that may be presented for the purpose of contesting the legality of any of the meetings of the General Assembly, or contesting the decisions issued at any one of these meetings. Such contesting shall not halt the implementation of any decision of the General Assembly unless the Court decides otherwise. Such a case shall not be entertained after the lapse of three months from the date of the meeting.	
		Article 275	a) Shareholders holding not less than 15% of the capital of a Public Shareholding Company, a Private Shareholding Company, a Limited Partnership in Shares, or of a Limited Liability Company, or at least one-fourth of the members of the Board of Directors or Management Committees of any of them, as the case may be, may request the Controller to audit the Company operations and books. Should the Controller be convinced of the justifications of this request, he shall delegate one or more experts for this purpose. Should the auditing uncover any violation that necessitates investigation, the Minister may refer the issue to an investigation committee from the Directorate's employees to verify the violation and to study the report prepared by the expert . In this respect, the committee may look into papers and documents it deems necessary or audit anew some issues whose auditing it deems necessary. The committee also has the right to recommend to the Controller to direct the Company to apply the recommendations issued by it or to refer the issue to the competent Court, as the case may be.	
Preemptive right to new issues	0	**SUMMARY**	In public shareholding companies, preemptive rights are allowed, but not automatically. A company's Memorandum of Association may disallow it, according to Article 92 of the Companies Law. Similarly, in private shareholding companies, the shareholders have preemptive rights in any new issues of the company unless the Memorandum of association states otherwise.	
		Article 81 bis	c) The shareholders shall have a priority right to any new issuance of shares, unless the Company Memorandum of Association stipulate otherwise.	Companies Law

		Article 92	b) The Shareholding Company Articles of Association and Memorandum of Association should include the following information: 7. Whether the shareholders and the holders of convertible bonds hold preemptive right to subscribe for any new issues to be made by the Company.	
% of share capital to call an ESM	15% / 25%	**SUMMARY**	Shareholders holding twenty five percent of the share capital are needed to call an ESM. With the auditors or Controller's request this drops to fifteen percent, as can be seen from Article 172.	
		Article 172	a) The General Assembly of a Public Shareholding Company shall hold an extraordinary meeting inside the Kingdom upon the invitation of the Board of Directors, or upon a written request submitted to the Board from shareholders holding not less than one-quarter of the Company subscribed shares, or upon a written request submitted by the Company auditors or the Controller, should shareholders holding in person not less than 15% of the Company subscribed shares request such a meeting.	Companies Law
Mandatory dividend	0	**SUMMARY**	There are no rules in the Companies Law stipulating the requirement for, or size of, the dividend. Article 186 discusses where dividends may be paid from (profits) but does not stipulate a size or need for them. There is no reference to dividend in the ASE listing rules or the Securities Law.	
		Article 186 As amended by the Temporary Law No. (40) for the year 2002.	a) The Public Shareholding Company may not distribute any dividends to its shareholders except from its profits, and after settling the rotated losses of the previous years. The Company shall deduct an amount equivalent to 10% of its annual net profit for the compulsory reserve account. No profits shall be distributed to shareholders before the deduction of such an amount. These deductions may not cease before the total amount accumulated in the account of the statutory reserve has become equal to one quarter of the Company subscribed capital. However, the Company may, with the approval of the General Assembly, continue to deduct this annual ratio until this reserve equals the subscribed capital of the Company in full.	Companies Law

Jordan – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Jordan does not have a reorganisation law; the Companies Law provides for liquidation (articles 252 – 277), merger, transformation, and reduction of capital. Neither does Jordan have a corporate bankruptcy law separate from the provisions laid out in the Companies Law no. (22) of year 1997 and its amendments (information from the Ministry of Trade).	
Restrictions on going into reorganisation	1	**SUMMARY**	Although Jordan does not have a separate bankruptcy or reorganization law, the Companies Law requires the imposition of certain restrictions during the reorganization process. Article 115, pertaining to the reduction of capital, and Articles 234 and 235, having to do with merger, give creditors the opportunity to voice their opposition. Articles 216 and 219, referring to transformation, obligate the obtainment of written approval from creditors who own a share greater than two-thirds of the company's debts. Article 262 deals with liquidation and stipulates that an agreement be reached by the liquidator and creditors, which will then be binding upon all of the latter if consent is given by creditors possessing the equivalent of three-quarters of the company's debt.	
		Article 115	a) The Board of Directors of the Public Shareholding Company shall submit the application for the reduction of its subscribed capital to the Controller together with the reasons that require such a reduction. This can only be made following the approval of the Company General Assembly of such reduction by a majority of at least seventy-five percent (75%) of the shares represented in its extraordinary meeting which is held for that purpose. A list of the names of the Company creditors, the amount of the debt of each of them, his address, and a statement of the Company assets and liabilities shall be attached to the application provided that same is certified by its auditor. b) The Controller shall notify the creditors whose names appear in the list submitted by the Company of the decision of the Company General Assembly regarding the reduction of its subscribed capital. The notice shall be published in two local daily newspapers at the Company expense. Each creditor may submit to the Controller, within thirty days from the date of publishing the last notice, a written objection against the reduction of the Company capital. If the Controller fails in settling the objections submitted to him within thirty days following the date of the expiry of the period fixed for submitting same, the objectors shall have the right to bring their case before the Court in respect of their objections within thirty days of the date of expiry of the period granted to the Controller to settle such objections. Any case brought before the Court after the lapse of said period shall be dismissed.	Companies Law

			c) Should the Controller receive a written notice from the Court informing him of any case that has been filed with it within the period specified in paragraph (b) of this Article to contest the reduction of the subscribed capital of the Company, then same shall stop the reduction procedures until a Court decision is issued and becomes final. The case in this instance is considered of an urgent nature in accordance with the Law of Civil Courts Procedures in force. d) If no case has been brought before the Court to contest the decision of the Company General Assembly regarding the reduction in its subscribed capital, or if a case has been filed but dismissed by the Court and the Court's decision became final, the Controller must continue considering the reduction of the Company capital and must submit his recommendation regarding same to the Minister to issue the decision he deems appropriate. Should the Minister approve the reduction, the Controller shall register and publish the said reduction decision at the Company expense in accordance with the procedures provided for in this Law so that the reduced capital of the Company shall by operation of law replace its capital listed in its Articles and Memorandum of Association. e) The reduction of the unsubscribed portion of the authorized share capital shall not be conditional on the approval of the Controller and creditors.	
		Article 216	A company may be transformed to a Limited Liability Company or a Limited Partnership in Shares or a Private Shareholding Company by observing the following procedures: a) A written application by all the partners, or the decision of the Company General Assembly should be submitted to the Controller, as the case may be, expressing the desire to transform the company together with the reasons and justification for the transformation and the type of company to which the transformation will be made. The following should be attached to the application: The Company balance sheet for each of the last two years preceding the transformation application duly certified by a licensed auditor, or the balance sheet of the company for the last fiscal year if no more than one year has elapsed since the company was registered. A statement made by the partners, estimating the Company assets and liabilities. b) Subject to the provisions of paragraph (a) of this Article, the partners or shareholders, as the case may be, must consent unanimously to the transformation of the company to a Private Shareholding Company. c) The Controller shall, within fifteen days from the date of submission of the application, announce in at least two local daily newspapers, at the expense of the company, the transformation application. The announcement shall show whether the creditors or others have any objection to the transformation. The transformation shall not be accomplished except with the written approval of the creditors who own more than two-thirds of the Company debts.	

			d) The Controller may verify the accuracy of the estimates of the net equity of the partners or shareholders, as the case may be, in the manner he deems appropriate including the appointment of one or more experts to verify the accuracy of these estimates. The company shall bear all the experts' fees as determined by the Controller. e) The Controller may accept or reject the transformation. In case of rejection, his decision shall be subject to the determined rules of contest but in case of approval the registration and publication procedures shall be completed in accordance with the provisions of this Law.	
		Article 219	a) The Controller shall announce the Minister's decision approving the transformation in at least two local daily newspapers, and for two consecutive times, at the expense of the company. The Controller shall notify the Commission, Market and Depository Center thereof. b) Any concerned entity may contest to the Minister the transformation decision within thirty days from the date of publishing the last transformation announcement, indicating therein the reasons and justifications for the objection. Should the submitted objections, or any one of them, not be settled within thirty days from the date of submitting the last objection, each objector may then contest the decision of the Minister at the High Court of Justice within thirty days from the end of that period, provided that this contest shall not suspend the transformation procedures unless the Court decides otherwise.	
		Article 234	a) Corporate bonds holders and the creditors of the merging companies or the merged companies, and any concerned shareholders or partners may object to the Minister within thirty days of the date of the announcement in the local newspapers in accordance with the provisions of Article (231), provided that same states the subject of the objection, the reasons on which the objection is based and the damages which same claim that the merger inflicted on them. b) The Minister shall refer the objections to the Controller to settle them. If the Controller fails to do so for whatever reason within the period of thirty days from the date of referring the objections thereto, the objecting entity shall have the right to contest the merger before the Court. These objections or cases raised before the Court shall not suspend the decision to merge.	

		Article 235	If the merger did not observe any of the provisions of this Law, or should the merger contradict public order, then any party with interest may file a case before the Court contesting the merger, provided that this takes place within sixty days from the date of announcing the final merger, and provided that the plaintiff indicates the reasons on which he based his case and especially the following: a) Should it become evident that there are deficiencies which abrogate the merger agreement or should there be an essential and clear discrepancy in the evaluation of the shareholder's equity. b) Should the merger involve an arbitrary use of rights, or should it aim to achieve a direct personal interest to the Boards of Directors of any of the merging Companies, or to the majority of shareholders in one of the Companies at the expense of the rights of the minority. c) Should the merger rest upon deceit or fraud, or should the merger cause harm to the creditors. d) Should the merger lead to a monopoly, or was preceded by a monopoly, and it becomes evident that the merger inflicts harm to the public economic interest.	
		Article 262	a) Every agreement concluded between the liquidator and creditors of a Public Shareholding Company shall be considered binding over the Company, should the Company General Assembly approve that agreement. It shall also be binding to the creditors, should it be accepted by a number of them whose total debts amount to three quarters of the debts due by the Company. Creditors whose debts are guaranteed by a mortgage or preference or a security, shall not be allowed to participate in voting for the said decision. The said agreement concluded pursuant to this paragraph shall be published in two daily newspapers within a period not exceeding seven days from the date of conclusion. b) Any creditor or debtor may contest the agreement stated in paragraph (a) of this Article before the Court within fifteen days of the date of the announcement.	
No automatic stay on assets	0	**SUMMARY**	Although Jordan does not have explicit reorganisation provisions, under the liquidation procedures established in the Companies Law, it is forbidden to dispose of the properties and rights of the company which is under liquidation, and to carry out any trading of its shares and/or transfer of their ownership.	
		Article 255	The following acts shall be considered null and void: 1- Any disposal of the properties and rights of a Public Shareholding Company which is under liquidation, and any trading of its shares and transfer of their ownership. […]	Companies Law
Secured creditors first (paid)	0	**SUMMARY**	Employees and taxes have priority in a liquidation.	

		Article 256	The liquidator shall settle the Company's debts in accordance with the following order, after deducting liquidation expenses, including the remuneration of the liquidator, and any violation of this order shall be considered null and void: (a) Amounts due to the Company employees. (b) Amounts due to the Public Treasury and to the municipalities. (c) Rents due to the owner of any real estate leased to the Company. (d) Other amounts due in accordance with the order of priority in accordance with the Laws in force.	Companies Law
Management replaced	0	**SUMMARY**	Although Jordan does not have explicit reorganisation provisions, according to Article 168 of the Companies Law, if the company is subject to any financial or administrative disorders or serious losses that affect the rights of the company's creditors, the Minister, upon the recommendation of the Controller, and after ascertaining the correctness of the notification, shall dissolve the company's board of directors and form a committee to manage the company for six months, renewable twice. Regarding liquidation, the Companies Law establishes that, should a resolution be adopted for liquidating a Public Shareholding Company and appointing a liquidator, the liquidator shall supervise the ordinary operations of the company and safeguard its funds and assets. As such, the chairman and Board of Directors of the Company under liquidation continue to manage the company (under the supervision of the liquidator); during this period, any change or modification of the obligations of the chairman and Board of Directors shall be considered null and void.	
		Article 168	a) The chairman of the Board of Directors, any members thereof, its general manager or its auditors shall notify the Controller of the occurrence of any financial or administrative disorders or serious losses which affect the rights of the Company shareholders or creditors. The Controller shall also be notified if the Company Board of Directors, or any member thereof, or its general manager exploit their powers and position in any manner that achieves for their or another's account any benefit in an illegitimate manner. This provision shall apply in case any of same abstain from work which the Law stipulates its implementation or the completion of any practice pertaining to fraud or considered embezzlement, forgery or breach of trust in a manner that affects the rights of the Company and its shareholders. Failure to do so by any of the aforesaid shall subject them to omissive liability. b) The Minister shall, in any of these cases and upon the recommendation of the Controller, after ascertaining the correctness of the notification, dissolve the Company Board of Directors and form a committee of any number, which he deems appropriate, of experienced and specialised persons to manage the Company for a period of six months renewable twice at most and shall appoint a chairman and a deputy chairman from amongst its members. I n this case, the committee shall invite the General Assembly during that period to elect a new Board of Directors for the Company. The chairman and members of the committee shall be granted remuneration, at the Company expense, as shall be determined by the Minister.	Companies Law

			c) The provisions of this Article shall apply to Limited Liability Companies and Private Shareholding Companies in any case approved by the Council of Ministers upon the recommendation of the Minister.	
		Article 253	Should a resolution be adopted for liquidating a Public Shareholding Company and appointing a liquidator, the liquidator shall supervise the ordinary operations of the Company and safeguard its funds and assets.	Companies Law
		Article 255	The following acts shall be considered null and void: 1- Any disposal of the properties and rights of a Public Shareholding Company which is under liquidation, and any trading of its shares and transfer of their ownership. 2- Any change or modification of the obligations of the chairman and Board of Directors of the Company under liquidation, or of the obligations of others towards the Company. […]	
Legal reserve	25%	**SUMMARY**	If company losses exceed seventy five percent of the capital mandatory liquidation will occur.	
		Article 266	a) An application for mandatory liquidation shall be submitted to the Court by a pleading from the Attorney General, Controller or any person authorized by him in any of the following circumstances […] 4. Should the losses of the company exceed 75% of its subscribed capital, unless its General Assembly issues a decision to increase its capital.	Companies Law

Malaysia – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The relevant legislation is the Companies Act 1965 (Act 125), with amendments. Listed companies are also obliged to observe the Listing Requirements of Bursa Malaysia Securities Berhad (Bursa Securities Listing Requirements). The Listing Requirements used were those available on the Bursa Malaysia Website at: www.bursamalaysia.com/website/bm/rules_and_regulations/listing_requirements/downloads/LR_MBSB_May06.pdf including amendments up to May 2006. In August 2003, the Companies Commission of Malaysia established the Corporate Law Reform Committee (CLRC) to spearhead the corporate law reform programme with the objective to undertake a comprehensive review of the corporate law in Malaysia. Corporate Governance reforms are a high priority of the Corporate Law Reform Committee as one of the four working groups focuses solely on the issues of corporate governance and shareholders' rights (the others are on company formation, the raising of capital, and insolvency & corporate securities). More information can be found at: www.sc.com.my/eng/html/cg/pdf/Strategic%20Framework%20corp%20law%20reform.pdf	
One share-one vote	1	**SUMMARY**	Section 55 (1) of the Companies Act 1965 provides for one share-one vote at a poll, but at any general meeting a resolution can be put to a vote by show of hands, ie one vote for one person. The Act provides, for public companies and their subsidiaries, that each equity share (including preference shares with voting rights) may carry only one vote thereby prohibiting the existence of both multiple voting and non-voting of ordinary shares. It does not allow firms to set a maximum number of votes per shareholder in relation to the number of shares he owns. If shares have different monetary denominations the votes are counted proportionally to their value (Paragraph 7.21, Bursa Securities Listing Requirements).	
		Section 55	(1) Notwithstanding any provisions in this Act or in the memorandum or articles of a company to which this section applies each equity share issued by such a company after the commencement of this Act shall confer the right at a poll at any general meeting of the company (subject as provided in Section 148 (1)) to one vote, and, to one vote only for each ringgit or part of a ringgit that has been paid up on that share.	Companies Act 1965

		Section 51	At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded (a) by the chairman; (b) by at least three members present in person or by proxy; (c) by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or (d) by a member or members holding shares in the company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right. […] The right to demand poll as provided for by the company's articles can be varied by the company. However the extent of varying the right to demand poll is curtailed by section 146(1) of the Companies Act 1965.	Fourth Schedule, Table A: Regulations for Management of a Company Limited by Shares, Companies Act 1965
		Paragraph 7.21	Voting rights of shares of different monetary denominations: Where the capital of a company consists of shares of different monetary denominations, voting rights shall be prescribed in such a manner that a unit of capital in each class, when reduced to a common denominator, shall carry the same voting power when such right is exercisable.	Bursa Securities Listing Requirements
Proxy by mail allowed	0	**SUMMARY**	Section 149 of the Companies Act 1965 provides for a statutory right for the appointment of proxies. However, proxies have to be present in person, as indicated in the Act and Bursa Securities Listing Requirements. Working Group C of the Corporate Law Reform Committee (CLRC) has recommended for the Companies Act 1965 to be amended to enable for voting in absentia which basically means incorporating a provision to enable a shareholder, if he wishes, to vote by electronic means or through post. However, this is to be facilitative rather than mandatory and there should be rules and guidance for such voting procedures to prevent abuse.	
		Section 149	(1) A member of a company entitled to attend and vote at a meeting of the company, or at a meeting of any class of members of the company, shall be entitled to appoint another person or persons (whether a member or not) as his proxy to attend and vote instead of the member at the meeting. Further, section 149 (2) of the Companies Act 1965 imposes a statutory obligation on the company to include a statement of reasonable prominence informing the members of the company of their right to appoint a proxy who is not a member of the company in any notice that is sent to members to convene a meeting.	Companies Act 1965
		Paragraph 7.20	Voting right of proxy: A proxy shall be entitled to vote on a show of hands on any question at any general meeting.	Bursa Securities Listing Requirements
Shares not blocked before meeting	1	**SUMMARY**	The Companies Act 1965 contains no restriction on transfer of fully paid shares before any meeting. The Act requires the company to produce a list of members and their shareholding at the start and throughout a company meeting Bursa Securities Listing Requirements contain no restriction on the transfer of fully paid securities that are quoted on it. Concerning meetings, Bursa Securities Listing Requirements paragraph 7.18 requires the company to identify its members at least three days before a general meeting.	

		Section 142	(6) The directors shall cause a list showing the names and addresses of the members and the numbers of shares held by them respectively to be produced at the commencement of the meeting and to remain open and accessible to any member during the continuance of the meeting. It should be noted that section 142 of the Companies Act 1965 deals with a one time statutory meeting that must be convened by a public company limited by shares. Hence, the provision cited above only applies to a public company when it convenes the required statutory meeting pursuant to section 142. Companies incorporated pursuant to the Companies Act 1965 are required to maintain a register of members. Further, the Companies Act 1965 provides a statutory right of inspection of this register to members and any other person, as established by sections 158, 159 and 160 of the Companies Act 1965.	Companies Act 1965
		Paragraph 7.18	Record of Depositor: (1) The company shall request the Depository in accordance with the Rules of the Depository, to issue a Record of Depositors to whom notices of general meetings shall be given by the company. (2) The company shall also request the Depository in accordance with the Rules of the Central Depository, to issue a Record of Depositors, as at a date not less than 3 market days before the general meeting (hereinafter referred to as "the General Meeting Record of Depositors"). (3) Subject to the Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996 (where applicable), a depositor shall not be regarded as a member entitled to attend any general meeting and to speak and vote thereat unless his name appears in the General Meeting Record of Depositors.	Bursa Securities Listing Requirements
Cumulative voting / proportional representation	0	**SUMMARY**	While there is no provision in the Companies Act 1965 for cumulative voting, neither it is prohibited. Section 55(1) of the Companies Act 1965 may pose restrictions in introducing cumulative voting. However, section 55 (1) only applies to public companies and hence there is a view that private companies may be able to introduce cumulative voting by amending its constitution. Similarly, there is nothing in the Companies Act that mandates proportional representation. The Malaysian Code on Corporate Governance introduced a form of proportional representation (Section 4.27 onwards). It does not mandate proportional representation, but aims to require companies to disclose the extent of compliance with the prescriptions of the Code. Compliance with the Malaysian Code of Corporate governance is purely voluntary. However, by virtue of paragraph 15.26 of the listing requirements, a listed company is obliged to provide reasons for non-compliance with the Code of Corporate Governance in its annual report. The recommendation that there should be proportional representation with respect to shareholders investment and the composition of the board is provided for in Part 2 of the Code. Hence, proportional representation is a best practice that is recommended to be complied with by the listed company, but the listed company can provide an explanation for its non-compliance. The requirement that the board of a listed company should be constituted by 1/3 of directors who are independent is mandatory as this is prescribed for specifically by paragraph 15.02 of the listing requirements.	

		Section 4.27	This recommendation introduces a form of proportional representation. For example, if the significant shareholder holds shares representing two-thirds of the equity and two-thirds of the votes for the election of the directors of the company that has a board of 9 directors, and which wishes to satisfy this best practice, the holder can elect up to 6 directors who have interests in or relationships with the significant shareholder. Note: the above recommendation only extends to circumstances where the significant shareholder is also the majority shareholder. It does not extend to cover situations where the significant shareholder holds less than the majority but is still the largest shareholder.	Malaysian Code on Corporate Governance
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	In the event the minority shareholders wish to challenge the decisions of the management, they may call for a meeting. However, to do this requires two or more members holding not less than one-tenth of the issued share capital (Section 145). Five percent of members can request a resolution to be placed before the next AGM (Section 151). The Minority Shareholders Watchdog Group provides a forum in which minority shareholders can voice their concerns and opinions. Section 181 of the Companies Act allows for obligatory share repurchase. Working Group C of the CLRC are exploring the possibility of amending Section 181 to give standing to, in addition to the existing persons who can bring an action under the oppression provision, the following persons:- (I) a person who is a former member but only if the oppression relates to the circumstances in which he ceased to be a member; and (II) a transferee of shares or a person entitled to them by operation of law whose membership has not yet been perfected Working Group C is also looking into the area of derivative actions i.e. enabling the minority shareholder to bring an action on behalf of the company in situations where the company does not take the action because the person who is to be sued controls the company and prevents or is able to prevent the company from suing him. It is also recommending that Section 145(1) should be amended to allow a single member, holding more than 10% of the issued capital, to call for a meeting of the company.	
		Section 145	(1) Two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per centum in number of the members of the company or such lesser number as is provided by the articles may call a meeting of the company. It should be noted that the Companies Act 1965 also provides another avenue that can be resorted to by shareholders to convene a general meeting in addition to that provided for by section 145(1) as discussed above. The other avenue involves the shareholders requisitioning the board to convene a general meeting as provided for by section 144 of the Companies Act 1965. The board is statutorily obliged to convene a general meeting when requisitioned by the shareholders provided the shareholders strictly comply with the procedures set out in section 144. In practise, section 145 is resorted to sparingly as it does not allow the shareholders who have convened the meeting to be reimbursed their costs in convening that meeting, while section 144 provides for reimbursement of costs.	Companies Act 1965

		Section 151	(1) Subject to this section a company shall on the requisition in writing of such number of members of the company as is specified in sub-section (2) of this section and (unless the company otherwise resolves) at the expense of the requisitionists - (a) give to members of the company entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting; and (b) circulate to members entitled to have notice of any general meeting sent to them any statement of not more than one thousand words with respect to the matter referred to in any proposed resolution or the business to be dealt with at that meeting. (2) The number of members necessary for a requisition under sub-section (1) of this section shall be – (a) any number of members representing not less than one-twentieth of the total voting rights of all the members having at that date of the requisition a right to vote at the meeting to which the requisition relates; or […]		
		Section 181	(1) Any member or holder of a debenture of a company, or in the case of a declared company under Part IX, the Minister, may apply to the Court for an order under this section on the ground - (a) that the affairs of the company are being conducted or that the powers of the directors are being exercised in a manner oppressive to one or more of the members or holders of debentures including himself or in disregard of his or their interests as members, shareholders or holders of debentures of the company; or […] (2) If on such application the Court is of the opinion that either of such grounds is established the Court may, with a view to bringing to an end or remedying the matters complained of, make such order as it thinks fit and without prejudice to the generality of the foregoing Order may – [...] (c) provide for the purchase of the shares or debentures of the company by other members or holders of debentures of the company or by the company itself; [...] The exit out order that can be granted by the court pursuant to section 181 (2) (c) is just one of the orders that the court can make in the event the oppressed shareholder makes out a case before the court pursuant to section 181 (1) (a) or (b).		

Preemptive right to new issues	1	**SUMMARY**	The default articles of association contained in Table A of the Fourth Schedule to the Companies Act 1965 prescribes pre-emptive rights. According to Section 30 of the Companies Act 1965, a company may register articles of association explicitly excluding or modifying those pre-emptive rights. Companies that are registered pursuant to the Companies Act 1965 can be classified into private companies and public companies. Section 29 together with section 30 of the Companies Act 1965 provides that a company limited by shares, be it a private company or a public company, can chose to adopt Table A as its articles of association. A public company's articles will not include a restriction on transfer of shares (a pre-emptive clause) and even more so a listed public company's articles as this would restrict free transfer of shares. However, under Section 15 of the Companies Act 1965, a private company restricts the right to transfer its shares. However, a public company's constitution may include regulation 41 of Table A, while in the case of a listed company its articles must incorporate a provision similar to article 41 of table A as it is mandated by paragraph 7.10 of the listing requirements. The objective article 41 is to prevent the dilution of voting power by the issue of new shares. The listed company however need not comply with paragraph 7.10 of listing requirements if directed otherwise by the general meeting. Listed issuers are required to provide for pre-emptive rights in their articles of association pursuant to Bursa Securities Listing Requirements. According to the relevant provision, those pre-emptive rights can be nullified by shareholders in general meeting.	
		Article 41	Subject to any direction to the contrary that may be given by the company in general meeting, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and, after the expiration of that time, or on receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this regulation.	Fourth Schedule, Table A: Regulations for Management of a Company Limited by Shares, Companies Act 1965

		Paragraph 7.10	Issue of new shares to members Subject to any direction to the contrary that may be given by the company in general meeting, all new shares or other convertible securities shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion as nearly as the circumstances admit, to the amount of the existing shares or securities to which they are entitled. The offer shall be made by notice specifying the number of shares or securities offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and, after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares or securities offered, the directors may dispose of those shares or securities in such manner as they think most beneficial to the company. The directors may likewise also dispose of any new share or security which (by reason of the ratio which the new shares or securities bear to shares or securities held by persons entitled to an offer of new shares or securities) cannot, in the opinion of the directors, be conveniently offered under this article.	Bursa Securities Listing Requirements
% of share capital to call an EGM	10%	**SUMMARY**	Members holding ten percent or more of the share capital or members representing more than 10 percent of the total voting rights are needed to call an Extraordinary General Meeting under Section 144 (1). See also 145 (1) above. Working Group C of the CLRC recommended that the threshold requirement for calling an EGM under section 144 be lowered to enable members holding not less than 5 percent of voting rights to requisition a meeting. The Working Group also recommended that Section 145(1) should be amended to allow a single member, holding more than 10 percent of the issued capital, to call for a meeting of the company.	
		Section 144	(1) The directors of a company, notwithstanding anything in its articles, shall on the requisition of members holding at the date of deposit of the requisition not less than one-tenth of such of the paid-up capital as at the date of the deposit carries the right of voting at general meetings or, in the case of a company not having a share capital, of members representing not less than one-tenth of the total voting rights of all members having at that date a right to vote at general meetings, forthwith proceed duly to convene an extraordinary general meeting of the company to be held as soon as practicable but in any case not later than two months after the receipt by the company of the requisition.	Companies Act 1965
		Section 145	(1) Two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per centum in number of the members of the company or such lesser number as is provided by the articles may call a meeting of the company.	
Mandatory dividend	0	**SUMMARY**	There is no reference to a mandatory dividend in the Companies Act 1965. However, it must be noted that non-declaration of dividend or rate of dividend declared can give rise to an application under section 181 of the Companies Act. Hence, a shareholder is not without a remedy in the event the company does not declare dividend.	

Malaysia – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Individual bankruptcy is covered by the Bankruptcy Act 1967 (Act 360) and rules made thereunder. Corporate distress is covered by the Companies Act 1965 (Act 125) and the Companies (Winding-up) Rules 1972 [PU (A) 289/1972]. Debt restructuring mechanisms administered by the central bank were followed in the aftermath of the 1997-98 financial crisis. These mechanisms are not currently available for new cases. Banks in Malaysia play a major governance role in insolvencies by appointing receivers or liquidators. However, procedures for companies that are illiquid but not insolvent and therefore could be required to be restructured or rehabilitated -- such as by turning control over to the banks and forcing a change of management -- are not well established. Nonetheless, the legal environment, until recently, was more favourable to the creditors. The Companies Act 1965 specifies two options for distressed companies: winding-up, and arrangement and reconstruction. After the 1997-98 financial crisis, three additional mechanisms were established, ranging from outright liquidation to debt restructuring and reorganisation of the company (Corporate Debt Restructuring, Asset Management Company, and Restructuring of Small Borrowers). Winding Up Under Companies Act 1965 Part X (Sections 212 through 318) of the Act deals with winding up of companies. This part deals essentially with a terminal procedure where the intention is to liquidate and close the company. Section 218 details the circumstances under which a company may be wound up by Court. Subsequent sections provide for appointment of a liquidator/receiver, define the powers of the liquidator, and establish the priority and ranking of debt between and within different classes of creditors. The provisions under this part are extensive and provide a clear basis for winding up. Schemes of Arrangement and Reconstruction Under Companies Act 1965 Part VII (Sections 176 through 181) of the Act deals with rehabilitation and restructuring of companies as ongoing concerns. Under this part of the Act, the High Court can permit a compromise or arrangement between a company and its creditors. A meeting pursuant to an order of a Court made under subsection (1) of Section 176 may be adjourned from time to time if the resolution for the adjournment is approved by a majority in number representing three-fourths of the value of the creditors or class of creditors or members or class of members present and voting either by person or proxy at the meeting. The Court can also issue summary orders temporarily restraining creditors from proceeding against the company for a period of not more than 90 days or such longer period as the Court may for good reason allow.	

GENERAL SUMMARY			Corporate Debt Restructuring Committee (CDRC) Process From mid-August 1998, a CDRC was established under the aegis and with the secretarial support of Bank Negara Malaysia (BNM), to provide a framework enabling creditors and debtors to arrive at schemes of compromise and reorganisation on a voluntary basis without resorting to legal processes. The aim of this scheme was to tackle the complex cases with outstanding debt of at least RM50 million and with more than three creditors. Restructuring of Small Borrowers For corporate borrowers with total outstanding debt of less than RM50 million, the Loan Monitoring Unit at BNM enabled such borrowers to continue to receive financial support while restructuring their operations. In addition, these borrowers could also use the Danaharta mechanism. For liquidation, Part X of the Companies Act 1965 applies. For court-approved schemes of arrangement, section 176 - 178 of the Companies Act 1965 applies. For special administration by Danaharta Corporation, the Pengurusan Danaharta Nasional Berhad Act 1998 applied. For court appointments of receivers, the Courts of Judicature Act 1964 reads with Order 30 of the Rules of the High Court 1980.	
Restrictions on going into reorganisation	1	**SUMMARY**	A majority representing at least seventy-five percent (three-fourths) in value of the creditors need to agree for arrangements to become binding.	
		Section 176	(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them or between the company and its members or any class of them the Court may on the application in a summary way of the company or of any creditor or member of the company, or in the case of a company being wound up of the liquidator, order a meeting of the creditors or class of creditors or of the members of the company or class of members to be summoned in such manner as the Court directs. (3) If a majority in number representing three-fourths in value of the creditors or class of creditors or members or class of members present and voting either in person or by proxy at the meeting or the adjourned meeting agrees to any compromise or arrangement, the compromise or arrangement shall if approved by order of the Court be binding on all the creditors or class of creditors or on the members or class of members and also on the company, or in the case of a company in the course of being wound up, on the liquidator and contributories of the company.	Companies Act 1965
No automatic stay on assets	1	**SUMMARY**	For arrangements and reconstructions, the Companies Act (section 176) only says that a court may grant a restraining order, not that it is automatic.	
		Section 176	(10A) The Court may grant a restraining order under subsection (10) to a company for a period of not more that ninety days or such longer period as the Court may for good reason allow.	Companies Act 1965

Secured creditors first (paid)	1	**SUMMARY**	Secured creditors are paid first. The order of priorities prescribed by law in Malaysia through sections 291 and 292 of the Companies Act 1965 as regards payment of debts in a company liquidation are: I. secured debts; II. preferential such as costs of the winding up, salary and wages, workers' compensation, remuneration in respect of vacation leave, contributions to superannuation or provident funds and lastly Federal (i.e. Malaysian Federal Government) taxes (Act 292); III. unsecured debts; IV. shareholders. Working Group D of the CLRC recommends the codification of the rights of secured creditors in the Companies Act 1965 which will also cater for the rights of a secured creditor in dealing with secured property in the event of liquidation.	
		Section 291	(1) In every winding up, subject in the case of insolvent companies to the application in accordance with this Act of the law relating to bankruptcy, all debts payable on a contingency and all claims against the company present or future certain or contingent ascertained or sounding only in damages shall be admissible to proof against the company, a just estimate being made so far as possible of the value of such debts or claims as are subject to any contingency or sound only in damages or for some other reason do not bear a certain value. (2) Subject to section 292, in the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and debts provable and the valuation of annuities and future and contingent liabilities as are in force for the time being under the law relating to bankruptcy in relation to the estates of bankrupt persons, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up and make such claims against the company as they respectively are entitled to by virtue of this section.	Companies Act 1965
		Section 292	(1) Subject to the provisions of this Act, in a winding up there shall be paid in priority to all other unsecured debts– (a) firstly, the costs and expenses of the winding up […] (b) secondly, all wages or salary […] (c) thirdly, all amounts due in respect of worker's compensation […] (d) fourthly, all remuneration payable to any employee […] (e) fifthly, all amounts due in respect of […] employees superannuation or provident funds […] (f) sixthly, the amount of all federal tax assessed […]	
Management replaced	0	**SUMMARY**	Management is replaced in the arrangements and reconstruction section only if a restraining order is obtained from the Court.	
		Section 176	(10B) The person approved or appointed by the Court to act as a director of the company under subsection (10A) shall have a right of access at all reasonable times to the accounting and other records (including registers) of the company, and is entitled to require from any officer of the company such information and explanation as he may require for the purposes of his duty.	Companies Act 1965

Legal reserve	0	**SUMMARY**	There is no provision concerning legal reserve requirement as a percentage of capital in the Companies Act 1965.	

Mexico – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Regulations for shareholder rights are primarily contained in the Ley General de Sociedades Mercantiles (Companies Law) of 1934 (last amended 28 July 2006) and the new Ley del Mercado de Valores (Securities Market Law), which was published on the *Diario Oficial de la Federación* on 30 December 2005 and came into force on 28 June 2006. The new Securities Market Law, includes several new complementary provisions regarding shareholder rights. In particular, Articles 49, 50, 53 and 54 of the law elaborate on the shareholders' rights of 'sociedades anónimas bursátiles'. These rights apply to companies listed in the stock exchange.	
One share -one vote	1	**SUMMARY**	Ordinary shares carry 'one vote per share' (Article 113). Article 112 allows the company to issue other types of shares such as non-voting shares, or shares with limited voting rights (Article 113). The issuance of restricted voting capital may be established in the by-laws and allows the company to determine more cases where the holders of that kind of stock are restricted to vote. However, for both cases explicit consent by the National Banking and Securities Commission (CNBV) is required. The Ley del Mercado de Valores establishes sociedades anónimas promotoras de inversión (SAPIs), which are allowed to issue different kinds of shares than those listed in Art. 112 and 113 of the Ley General de Sociedades Mercantiles. The issuance of securities different than common stock must not exceed twenty-five percent of the public float, but the CNBV may approve an extension, with the condition that those securities must be converted into common stocks in a period of no more than five years (Article 54, Ley del Mercado de Valores). The SML provides the possibility for enterprises to issue limited-voting capital (Article 117, Ley del Mercado de Valores). Articles 17 and 182 are included as they are mentioned in Articles 112 and 113.	
		Artículo 112	Las acciones serán de igual valor y conferirán iguales derechos. Sin embargo, en el contrato social podrá estipularse que el capital se divida en varias clases de acciones con derechos especiales para cada clase, observándose siempre lo que dispone el artículo 17.	Ley General de Sociedades Mercantiles
		Artículo 17	No producirán ningún efecto legal las estipulaciones que excluyan a uno o más socios de la participación en las ganancias.	
		Artículo 113	Cada acción sólo tendrá derecho a un voto; pero en el contrato social podrá pactarse que una parte de las acciones tenga derecho de voto solamente en las Asambleas Extraordinarias que se reúnan para tratar los asuntos comprendidos en las fracciones I, II, IV, V, VI y VII del artículo 182. […]	

		Artículo 182	Son asambleas extraordinarias, las que se reúnan para tratar cualquiera de los siguientes asuntos: I.- Prórroga de la duración de la sociedad; II.- Disolución anticipada de la sociedad; [...] IV.- Cambio de objeto de la sociedad; V.- Cambio de nacionalidad de la sociedad; VI.- Transformación de la sociedad; VII.- Fusión con otra sociedad; [...]	
		Artículo 13	Artículo 13.- Las sociedades anónimas promotoras de inversión, además de contemplar en sus estatutos sociales los requisitos que se señalan en el artículo 91 de la Ley General de Sociedades Mercantiles, podrán prever estipulaciones que, sin perjuicio de lo establecido en el artículo 16, fracciones I a V de esta Ley: … III. Permitan emitir acciones distintas de las señaladas en los artículos 112 y 113 de la Ley General de Sociedades Mercantiles que: a) No confieran derecho de voto o que el voto se restrinja a algunos asuntos. b) Otorguen derechos sociales no económicos distintos al derecho de voto o exclusivamente el derecho de voto. c) Limiten o amplíen el reparto de utilidades u otros derechos económicos especiales, en excepción a lo dispuesto en el artículo 17 de la Ley General de Sociedades Mercantiles. d) Confieran el derecho de veto o requieran del voto favorable de uno o más accionistas, respecto de las resoluciones de la asamblea general de accionistas.	Ley del Mercado de Valores

		Artículo 54	Artículo 54.- Las sociedades anónimas bursátiles sólo podrán emitir acciones en las que los derechos y obligaciones de sus titulares no se encuentren limitados o restringidos, las cuales serán denominadas como ordinarias, salvo en los casos a que se refiere este artículo. La Comisión podrá autorizar la emisión de acciones distintas de las ordinarias, siempre que las acciones de voto limitado, restringido o sin derecho a voto, incluyendo las señaladas en los artículos 112 y 113 de la Ley General de Sociedades Mercantiles, no excedan del veinticinco por ciento del total del capital social pagado que la Comisión considere como colocado entre el público inversionista, en la fecha de la oferta pública, conforme a las disposiciones de carácter general que al efecto expida. La Comisión podrá ampliar el límite señalado en el párrafo anterior, siempre que se trate de esquemas que contemplen la emisión de cualquier tipo de acciones forzosamente convertibles en ordinarias en un plazo no mayor a cinco años, contado a partir de su colocación o se trate de acciones o esquemas de inversión que limiten los derechos de voto en función de la nacionalidad del titular. Las acciones sin derecho a voto no contarán para efectos de determinar el quórum de las asambleas de accionistas, en tanto que las acciones de voto limitado o restringido únicamente se computarán para sesionar legalmente en las asambleas de accionistas a las que deban ser convocados sus tenedores para ejercer su derecho de voto.	
		Artículo 117	Artículo 117.- El capital social de las casas de bolsa estará formado por una parte ordinaria y podrá también estar integrado por una parte adicional. El capital social ordinario de las casas de bolsa se integrará por acciones de la serie "O". En su caso, el capital social adicional estará representado por acciones serie "L", que podrán emitirse hasta por un monto equivalente al cuarenta por ciento del capital social ordinario, previa autorización de la Comisión. Las acciones representativas de las series "O" y "L" serán de libre suscripción, salvo tratándose de personas morales extranjeras que ejerzan funciones de autoridad, las cuales en ningún caso podrán participar en el capital social de las casas de bolsa.	

			Las acciones serie "L" serán de voto limitado y otorgarán derecho de voto únicamente en los asuntos relativos a cambio de objeto, fusión, escisión, transformación, disolución y liquidación, así como cancelación del listado en cualquier bolsa de valores y de la inscripción en el Registro, de las acciones representativas del capital social o títulos que las representen. Además, las acciones serie "L" podrán conferir derecho a recibir un dividendo preferente y acumulativo, así como a un dividendo superior al de las acciones representativas del capital ordinario, siempre y cuando así se establezca en los estatutos sociales de la sociedad. En ningún caso los dividendos de esta serie podrán ser inferiores a los de la serie "O". Las acciones serán de igual valor y dentro de cada serie conferirán a sus tenedores los mismos derechos.	
Proxy by mail allowed	0	**SUMMARY**	Both the Companies Law and Securities Market Law do not explicitly provide for proxy by mail. Under both laws, shareholders can nominate a representative to the general assembly who will have to show up in person to the meeting. On the other hand, since the laws are silent regarding any prohibition to proxy voting by mail, shareholders may be able to do so if the company has established this type of voting procedure in its bylaws.	
		Artículo 192	Los accionistas podrán hacerse representar en las Asambleas por mandatarios, ya sea que pertenezcan o no a la sociedad. La representación deberá conferirse en la forma que prescriban los estatutos y a falta de estipulación, por escrito. No podrán ser mandatarios los Administradores ni los Comisarios de la sociedad.	Ley General de Sociedades Mercantiles
		Artículo 121	Las casas de bolsa, al convocar a las asambleas generales de accionistas, deberán listar en el orden del día todos los asuntos a tratar en la asamblea, incluso los comprendidos bajo el rubro de generales o sus equivalentes. Asimismo, deberán poner a disposición de los accionistas con por lo menos quince días naturales de anticipación a la celebración de cada asamblea, la documentación e información relacionada con los temas a discutir en la misma.	Ley del Mercado de Valores
			Las personas que acudan en representación de los accionistas a las asambleas, podrán acreditar su personalidad mediante poder otorgado en formularios elaborados por la propia sociedad, que deberán reunir los requisitos siguientes: I. Señalar de manera notoria la denominación social, así como el respectivo orden del día. II. Contener espacio para las instrucciones que señale el otorgante para el ejercicio del poder.	
Shares not blocked before meeting	1	**SUMMARY**	Shares are not required to be blocked before a meeting. In the case of listed companies, securities have to be deposited in the Central Securities Deposit (INDEVAL). Depositors may not withdraw their securities from the INDEVAL from the day it issues a certificate for those securities to the day after the General Shareholders Meeting.	Ley General de Sociedades Mercantiles

Cumulative voting / proportional representation	1	**SUMMARY**	In the case of public companies, minorities that represent at least ten percent of the shareholders' capital have the right to appoint one member to the board of directors (Consejo de Administración). In the case of non-public companies, minorities get this right if they represent at least 25% of shareholders' capital (10% for listed companies). There is no legal restriction regarding cumulative voting.	
		Artículo 144	Cuando los administradores sean tres o más, el contrato social determinará los derechos que correspondan a la minoría en la designación, pero en todo caso la minoría que represente un veinticinco por ciento del capital social nombrará cuando menos un consejero. Este porcentaje será del diez por ciento, cuando se trate de aquellas sociedades que tengan inscritas sus acciones en la Bolsa de Valores.	Ley General de Sociedades Mercantiles
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	For both listed and unlisted companies, any shareholder having voted against some resolutions of the assembly such as: change of the company objectives, change of nationality of the firm or complete transformation of the company, has the right to ask the company to buy-back all the shares he owns at a price estimated as a proportion of the assets (activo social) of the last financial statement disclosed to the authorities. These investors have a maximum term of fifteen days after the day of the shareholders meeting to ask the issuer for the buy-back of their assets. Further, in the case of listed companies, the CNBV is considering the addition of other causes where shareholders can ask the company for a buy-back. Some of them are regarding to the board's approval of the following: transactions different from the original business of the company; policies regarding transactions with related persons; stock transactions involving more than ten percent of the firm's assets (Proposal of SML modification, article 14 Bis 3, X).	
		Artículo 206	Cuando la Asamblea General de Accionistas adopte resoluciones sobre los asuntos comprendidos en las fracciones IV, V y VI del artículo 182, cualquier accionista que haya votado en contra tendrá derecho a separarse de la sociedad y obtener el reembolso de sus acciones, en proporción al activo social, según el último balance aprobado siempre que lo solicite dentro de los quince días siguientes a la clausura de la asamblea.	Ley General de Sociedades Mercantiles
		Artículo 51	Artículo 51.- Los titulares de acciones con derecho a voto, incluso limitado o restringido, que en lo individual o en conjunto tengan el veinte por ciento o más del capital social, podrán oponerse judicialmente a las resoluciones de las asambleas generales respecto de las cuales tengan derecho de voto, sin que resulte aplicable el porcentaje a que se refiere el artículo 201 de la Ley General de Sociedades Mercantiles.	Ley del Mercado de Valores
Preemptive right to new issues	1	**SUMMARY**	According to article 132, shareholders have preemptive rights over the issuance of new shares.	

		Artículo 132	Los accionistas tendrán derecho preferente, en proporción al número de sus acciones, para suscribir las que emitan en caso de aumento del capital social. Este derecho deberá ejercitarse dentro de los quince días siguientes a la publicación en el Periódico Oficial del domicilio de la sociedad, del acuerdo de la Asamblea sobre el aumento del capital social.	Ley General de Sociedades Mercantiles
% of share capital to call an ESM	10%	**SUMMARY**	Shareholders owning voting shares (even limited or restricted voting ones), and representing at least ten percent of capital stock of a listed company, can call for General Shareholders Meetings (both ordinary and extraordinary). In case of unlisted companies, the required ownership is thirty-three percent.	
		Artículo 50	Artículo 50.- Los accionistas titulares de acciones con derecho a voto, incluso limitado o restringido, que en lo individual o en conjunto tengan el diez por ciento del capital social de la sociedad tendrán derecho a: I. Designar y revocar en asamblea general de accionistas a un miembro del consejo de administración. Tal designación, sólo podrá revocarse por los demás accionistas cuando a su vez se revoque el nombramiento de todos los demás consejeros, en cuyo caso las personas sustituidas no podrán ser nombradas con tal carácter durante los doce meses inmediatos siguientes a la fecha de revocación. II. Requerir al presidente del consejo de administración o de los comités que lleven a cabo las funciones en materia de prácticas societarias y de auditoría a que se refiere esta Ley, en cualquier momento, se convoque a una asamblea general de accionistas, sin que al efecto resulte aplicable el porcentaje señalado en el artículo 184 de la Ley General de Sociedades Mercantiles. III. Solicitar que se aplace por una sola vez, por tres días naturales y sin necesidad de nueva convocatoria, la votación de cualquier asunto respecto del cual no se consideren suficientemente informados, sin que resulte aplicable el porcentaje señalado en el artículo 199 de la Ley General de Sociedades Mercantiles. Los accionistas de la parte variable del capital social de una sociedad anónima bursátil no tendrán el derecho de retiro a que se refiere el artículo 220 de la Ley General de Sociedades Mercantiles.	Ley del Mercado de Valores
		Artículo 184	Los accionistas que representen por lo menos el treinta y tres por ciento del capital social, podrán pedir por escrito, en cualquier tiempo, al Administrador o Consejo de Administración o a los Comisarios, la Convocatoria de una Asamblea General de Accionistas, para tratar de los asuntos que indiquen en su petición. Si el Administrador o Consejo de Administración, o los Comisarios se rehusaren a hacer la convocatoria, o no lo hicieren dentro del término de quince días desde que hayan recibido la solicitud, la convocatoria podrá ser hecha por la autoridad judicial del domicilio de la sociedad, a solicitud de quienes representen el treinta y tres por ciento del capital social, exhibiendo al efecto los títulos de las acciones.	Ley General de Sociedades Mercantiles

Mandatory dividend	0	**SUMMARY**	Only the issuers of limited voting shares are required to distribute a minimum of 5 per cent of their net income as dividends. If in a certain fiscal year, there were no dividends, such payments must be exercised in subsequent years. The incorporation letters (Escritura constitutiva) of a company must include rules about the distribution of benefits and loses among shareholders.	
		Artículo 137	Las acciones de goce tendrán derecho a las utilidades líquidas, después de que se haya pagado a las acciones no reembolsables el dividendo señalado en el contrato social. El mismo contrato podrá también conceder el derecho de voto a las acciones de goce.	Ley General de Sociedades Mercantiles

Mexico – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The Commercial Reorganisation and Bankruptcy Law (Ley de Concursos Mercantiles), of 12 May 2000, governs the reorganisation and the bankruptcy of corporations. This law seeks to maximise the value of a company in financial distress, promote its viability and when possible, maintain its operation and payroll. The legal framework provides a balance between companies and creditors' rights in order to protect them equally. The bankruptcy regime shortens the bankruptcy procedure and encourages debt restructuring. Companies are not allowed to declare a "suspensión de pagos", a legal status that prevented them from declaring bankruptcy. The law includes the creation of the Federal Institute of Reorganisation and Bankruptcy Specialists, which provides technical assistance. The insolvency process comprises three stages: Supervision Stage: its purpose is to verify, on the basis of an objective criterion, whether or not the firm has failed the commitment of their payment obligations to its creditors in a general way; Conciliation Stage: its objective is to maximise the value of the firm in financial distress through a reorganisation agreement between the firm and its creditors. If a reorganisation agreement is not reached the Liquidation Stage follows. Liquidation Stage: its objective is to preserve the firm's value through an orderly liquidation of its assets and satisfaction of the claims of its different creditors and stockholders, according to their respective rights.	

Restrictions on going into reorganisation	1	**SUMMARY**	The nomination of the 'visitor', 'negotiator' (conciliador) or 'receiver' is a responsibility of the Federal Institute of Reorganisation and Bankruptcy Specialists, once the Institute receives a sentence from a judge. Such nomination may be challenged by any of the creditors within three days following the designation of such persons. No person in any of the following cases may act as visitor, negotiator or receiver: • Husbands or wife, concubines or relatives within the fourth grade by consanguinity or second by affinity, of the merchant under reorganization or bankruptcy, of creditors or the Judge in charge of the proceeding. • To be in the same situation as in paragraph a) for the members of the management bodies, when the Merchant is a company, and for the unlimited responsible partners. • Lawyers, attorneys or authorized persons by the Merchant or any of its creditors in a pending trial. • Maintain or have maintained during the last six months previous to its designation, any professional relation with the Merchant or any of its creditors, or have worked independently under its subordination. • Being partner, lessor or tenant of the Merchant or any of its creditors, or • To have a direct interest in the reorganization or bankruptcy, to be a "close friend" or "known enemy" of the Merchant or any of its creditors. Challenging the nomination of the visitor, negotiator or receiver does not cancel their functions or may suspend the visit, the conciliation or the liquidation. The merchants, auditors and creditors may, on an individual basis, indict any act or omission committed by the visitor, negotiator or receiver against the Law. Articles 10 and 20 give a brief description of the circumstances surrounding a reorganisation process (Proceso de Concurso). Under Article 161, both the administration of the company and its registered creditors can object to the articles of the reorganisation agreement.	
		Artículo 56	El nombramiento del visitador, conciliador o síndico podrá ser impugnado ante el juez por el Comerciante, y por cualquiera de los acreedores dentro de los tres días siguientes a la fecha en que la designación se les hubiere hecho de su conocimiento […] El juez podrá rechazar la desgnación que haga el Instituto cuando se dé alguno de los supuestos del Artículo 328 de esta Ley, debiendo notificarlo al Instituto para que realice una nueva desgnación.	Ley de Concursos Mercantiles

		Artículo 328	No podrán actuar como visitadores, conciliadores o síndicos en el procedimiento de concurso mercantil de que se trate, las personas que se encuentren en alguno de los siguientes supuestos: I. Ser cónyuge, concubina o concubinario o pariente dentro del cuarto grado por consanguinidad o segundo por afinidad, del Comerciante sujeto a concurso mercantil, de alguno de sus acreedores o del juez ante el cual se desarrolle el procedimiento; II. Estar en la misma situación a que se refiere la fracción anterior respecto de los miembros de los órganos de administración, cuando el Comerciante sea una persona moral y, en su caso, de los socios ilimitadamente responsables; III. Ser abogado, apoderado o persona autorizada, del Comerciante o de cualquiera de sus acreedores, en algún juicio pendiente; IV. Mantener o haber mantenido durante los seis meses inmediatos anteriores a su designación, relación laboral con el Comerciante o alguno de los acreedores, o prestarle o haberle prestado durante el mismo periodo, servicios profesionales independientes siempre que éstos impliquen subordinación; V. Ser socio, arrendador o inquilino del Comerciante o alguno de sus acreedores, en el proceso al cual se le designe, o VI. Tener interés directo o indirecto en el concurso mercantil o ser amigo cercano o enemigo manifiesto del Comerciante o de alguno de sus acreedores. La incompatibilidad a que se refiere la fracción VI, será de libre apreciación judicial.	
		Artículo 10	Para los efectos de esta Ley, el incumplimiento generalizado en el pago de las obligaciones de un Comerciante a que se refiere el artículo anterior, consiste en el incumplimiento en sus obligaciones de pago a dos o más acreedores distintos y se presenten las siguientes condiciones: I. Que de aquellas obligaciones vencidas a las que se refiere el párrafo anterior, las que tengan por lo menos treinta días de haber vencido representen el treinta y cinco por ciento o más de todas las obligaciones a cargo del Comerciante a la fecha en que se haya presentado la demanda o solicitud de concurso, y II. El Comerciante no tenga activos enunciados en el párrafo siguiente, para hacer frente a por lo menos el ochenta por ciento de sus obligaciones vencidas a la fecha de la demanda. [...]	
		Artículo 20	El Comerciante que considere que ha incurrido en el incumplimiento generalizado de sus obligaciones en términos de cualquiera de los dos supuestos establecidos en el artículo 10 de esta Ley, podrá solicitar que se le declare en concurso mercantil.	
		Artículo 161	El conciliador, una vez que considere que cuenta con la opinión favorable del Comerciante y de la mayoría de Acreedores Reconocidos necesaria para la aprobación de la propuesta de convenio, la pondrá a la vista de los Acreedores Reconocidos por un plazo de diez días para que opinen sobre ésta y, en su caso, suscriban el convenio […]	

		Artículo 162	El juez al día siguiente de que le sea presentado el convenio y su resumen para su aprobación, deberá ponerlos a la vista de los Acreedores Reconocidos por el término de cinco días, a fin de que, en su caso: I. Presenten las objeciones que consideren pertinentes, respecto de la autenticidad de la expresión de su consentimiento, y II. Se ejerza el derecho de veto a que se refiere el artículo siguiente.	
		Artículo 163	El convenio podrá ser vetado por una mayoría simple de Acreedores Reconocidos comunes, o bien por cualquier número de éstos, cuyos créditos reconocidos representen conjuntamente al menos el cincuenta por ciento del monto total de los créditos reconocidos a dichos acreedores. No podrán ejercer el veto los Acreedores Reconocidos comunes que no hayan suscrito el convenio si en éste se prevé el pago de sus créditos en los términos del artículo 158 de este ordenamiento.	
No automatic stay on assets	0	**SUMMARY**	There is an automatic stay on assets from the moment the reorganisation process begins	
		Artículo 65	Desde que se dicte la sentencia de concurso mercantil y hasta que termine la etapa de conciliación, no podrá ejecutarse ningún mandamiento de embargo o ejecución contra los bienes y derechos del Comerciante. [...]	Ley de Concursos Mercantiles
Secured creditors first (paid)	0	**SUMMARY**	Article 217 lists creditors according to their order of priority. Article 224 states that the credits mentioned under article 123, paragraph A, Item XXIII of the Mexican Constitution, have absolute priority over any of the credits mentioned in article 217. Article 123 describes those credits as workers' wages and redundancy payments.	
		Artículo 217	Los acreedores se clasificarán en los grados siguientes, según la naturaleza de sus créditos: I. Acreedores singularmente privilegiados; II. Acreedores con garantía real; III. Acreedores con privilegio especial, y IV. Acreedores comunes.	Ley de Concursos Mercantiles
		Artículo 224	Son créditos contra la Masa y serán pagados en el orden indicado y con anterioridad a cualquiera de los que se refiere el artículo 217 de esta Ley: I. Los referidos en la fracción XXIII, apartado A, del artículo 123 constitucional y sus disposiciones reglamentarias […]	

		Artículo 123	El Congreso de la Unión, sin contravenir a las bases siguientes, deberá expedir leyes sobre el trabajo, las cuales regirán: A. Entre los obreros, jornaleros, empleados, domésticos, artesanos y, de una manera general, todo contrato de trabajo: XXIII. Los créditos en favor de los trabajadores por salario o sueldos devengados en el último año, y por indemnizaciones, tendrán preferencia sobre cualesquiera otros en los casos de concurso o de quiebra;	Constitución Política
Management replaced	0	**SUMMARY**	The company is allowed to keep its administrative body, although a negotiator ('Conciliador') designated by the judge has the obligation to monitor the accounts and the way operations are managed. This negotiator decides about the resolution of outstanding contracts and will approve any new credits, etc. This negotiator could recommend the removal of the management.	
		Artículo 74	Durante la etapa de conciliación, la administración de la empresa corresponderá al Comerciante, salvo lo dispuesto en el artículo 81 de esta Ley.	Ley de Concursos Mercantiles
		Artículo 146	Dentro de los cinco días siguientes a que reciba la notificación de la sentencia de concurso mercantil, el Instituto deberá designar, conforme al procedimiento aleatorio previamente establecido, un conciliador para el desempeño de las funciones previstas en esta Ley salvo que ya se esté en alguna de las situaciones previstas en el artículo 147.	
		Artículo 75	Cuando el Comerciante continúe con la administración de su empresa, el conciliador vigilará la contabilidad y todas las operaciones que realice el Comerciante. El conciliador decidirá sobre la resolución de contratos pendientes y aprobará, previa opinión de los Interventores, en caso de que existan, la contratación de nuevos créditos, la constitución o sustitución de garantías y la enajenación de activos cuando no estén vinculadas con la operación ordinaria de la empresa del Comerciante. El conciliador deberá dar cuenta de ello al juez. Cualquier objeción se substanciará incidentalmente. En caso de sustitución de garantías, el conciliador deberá contar con el consentimiento previo y por escrito del acreedor de que se trate.	
		Artículo 81	En caso de que el conciliador estime que así conviene para la protección de la Masa, podrá solicitar al juez la remoción del Comerciante de la administración de su empresa. Al admitir la solicitud, el juez podrá tomar las medidas que estime convenientes para conservar la integridad de la Masa. La remoción del Comerciante se tramitará por la vía incidental.	
		Artículo 82	Si se decreta la remoción del Comerciante de la administración de su empresa, el conciliador asumirá, además de las propias, las facultades y obligaciones de administración que esta Ley atribuye al síndico para la administración.	
Legal reserve	20%	**SUMMARY**	Article 20 states that the legal reserve is twenty percent of the total share capital	

		Artículo 20	De las utilidades netas de toda sociedad, deberá separarse anualmente el cinco por ciento, como mínimo, para formar el fondo de reserva, hasta que importe la quinta parte del capital social. El fondo de reserva deberá ser reconstituído de la misma manera cuando disminuya por cualquier motivo.	Ley General de Sociedades Mercantiles
		Artículo 21	Son nulos de pleno derecho los acuerdos de los administradores o de las juntas de socios y asambleas, que sean contrarios a lo que dispone el artículo anterior. En cualquier tiempo en que, no obstante esta prohibición, apareciere que no se han hecho las separaciones de las utilidades para formar o reconstituir el fondo de reserva, los administradores responsables quedarán, ilimitada y solidariamente, obligados a entregar a la sociedad, una cantidad igual a la que hubiere debido separarse. Quedan a salvo los derechos de los administradores para repetir contra los socios por el valor de lo que entreguen cuando el fondo de reserva se haya repartido. No se entenderá como reparto la capitalización de la reserva legal, cuando esto se haga, pero en este caso deberá volverse a constituir a partir del ejercicio siguiente a aquel en que se capitalice, en los términos del artículo 20.	

Morocco – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The code of commerce and laws relative to companies in Morocco were reformed in 1996 and 1997. These new laws, mainly based on the regulations in France, largely replace the former laws of 1913. The main types of companies are: Société Anonyme (SA), Société à Responsabilité limitée (SARL), and Groupement d'Intérêt Economique (GIE). All the following information relates to the SA form of company, unless otherwise stated. The relevant Articles used to understand shareholder and creditor rights remain unchanged since the previous report. The laws were obtained from the following sources, both being official websites of the Moroccan government: • 'Law enacting a Code of Commerce', short title used here is the Code of Commerce • Dahir n° 1-96-83 du 15 rabii 1417 (1er août 1996) portant promulgation de la loi n° 15-95 formant code de commerce (Bulletin officiel n° 4418 du 19 joumada I 1417 (3 octobre 1996) http://www.justice.gov.ma/fr/bulletinofficiel/tribcommerce/codecommerce.htm • Law Governing Corporations, or Corporate Law • Dahir n° 1-96-124 du 14 rabii II 1417 (30 aout 1996) portant promulgation de la loi n°17-95 relative aux Société Anonyme (SA) (appearing with the relevant Resolutions ('arrêtés'), Decrees (décrets), and Circulars (circulaires)), www.cdvm.gov.ma/documents/pdf/reglementation/94-%20Dahir%20sur%20les%20SA.Pdf For background information, there is an October 2003 report on Corporate Governance in the MENA region (including Morocco) by CIPE (the Center for International Private Enterprise) and GCGF (the Global Corporate Governance Forum) available at http://www.gcgf.org/Round%20Tables/Middle%20East/REGIONAL_REPORT.pdf and a ROSC report (in French) on Corporate Governance in Morocco dated May 2003 available at http://www.worldbank.org/ifa/morrosc_aa.pdf	

One share-one vote	1	**SUMMARY**	Every ordinary share has the right to one vote (Article 259). There are three other types of shares: "double voting-right" shares, "dividend priority without voting right" shares, and "priority shares". The emission of shares with multiple voting rights is forbidden except in one particular case. According to Article 257, double voting-right shares can be granted by the company rules at inception or during an extraordinary general meeting. In the latter case, shares must have remained at least two years with the same shareholder. If double voting-right shares are transmitted to a third party, they lose the right of double-voting, whereas in the case of inheritance or merger, such rights are retained, as stated in Article 258. Shares with dividend priority, without voting right, called "actions à dividende prioritaire sans droit de vote", must not exceed one quarter of the total capital (Articles 261, 263-271). Lastly, priority shares "actions de priorité", give special benefits to its holders (Article 262), although no detail is given concerning the conditions relative to these shares.	
		Article 259	[…] le droit de vote attaché aux actions de capital ou aux actions de jouissance telles que définies à l'article 202 est proportionnel à la quotité de capital qu'elles représentent et chaque action donne droit à une voix au moins. […] L'émission d'actions à vote plural est interdite en dehors du cas prévu à l'article 257 précédent.	"Dahir n° 1-96-124", 30 August 1996
		Article 257	[…] Un droit de vote double de celui conféré aux autres actions, eu égard à la quotité de capital social qu'elles représentent, peut-être attribué par les statuts ou une assemblée générale extraordinaire ultérieure, à toutes les actions entièrement libérées pour lesquelles il sera justifié d'une inscription nominative, depuis deux ans au moins au nom du même actionnaire. […]	
		Article 261	[...], les statuts peuvent prévoir la création d'actions à dividende prioritaire sans droit de vote; elles sont régies par les articles 263 à 271. […]	
		Article 263	[…] Les actions à dividende prioritaire sans droit de vote ne peuvent représenter plus du quart du montant du capital social. […]	
Proxy by mail allowed	0	**SUMMARY**	Any shareholder can be represented at meetings by another shareholder, a spouse, a parent, or a child. There is no limit to the number of proxies one person can receive, unless otherwise stated. The proxy must be signed by the shareholder and include first name, surname, and address. The proxy is valid for only one meeting. However, proxy via mail or email is not currently allowed. Proposed amendments to Article 131 will make provisions allowing vote by mail.	

		Article 131	Un actionnaire peut se faire représenter par un autre actionnaire, par son conjoint ou par un ascendant ou descendant. Tout actionnaire peut recevoir les pouvoirs émis par d'autres actionnaires en vue d'être représenté à une assemblée et ce sans limitation du nombre de mandats ni des voix dont peut disposer une même personne, tant en son nom personnel que comme mandataire, à moins que ce nombre ne soit fixé dans les statuts. Sauf dispositions contraires des statuts, pour toute procuration d'un actionnaire adressée à la société sans indication de mandataire, le président de l'assemblée générale émet un vote favorable à l'adoption des projets de résolutions présentés ou agréés par le conseil d'administration ou le conseil de surveillance et un vote défavorable à l'adoption de tous les autres projets de résolution. Pour émettre tout autre vote, l'actionnaire doit faire choix d'un mandataire qui accepte de voter dans le sens indiqué par le mandant. Les clauses contraires aux dispositions des deux premiers alinéas sont réputées non écrites.	"Dahir n° 1-96-124", 30 August 1996
		Article 132	La Procuration donnée pour se faire représenter à une assemblée par un actionnaire est signée par celui-ci et indique ses prénom, nom et domicile. [...] Le mandat est donné pour une seule assemblée. […]	
Shares not blocked before meeting	1	**SUMMARY**	Article 130 contains a provision allowing shares to be lodged with the company or a bank before an AGM or EGM. However, this is not a requirement.	
		Article 130	Les statuts peuvent subordonner la participation ou la représentation aux assemblées, soit à l'inscription de l'actionnaire sur le registre des actions nominatives de la société, soit au dépôt, au lieu indiqué par l'avis de convocation, des actions au porteur ou d'un certificat de dépôt délivré par l'établissement dépositaire de ces actions. La durée pendant laquelle ces formalités doivent être accomplies est fixée par les statuts. Elle ne peut être antérieure de plus de cinq jours à la date de réunion de l'assemblée.	"Dahir n° 1-96-124", 30 August 1996
Cumulative voting / proportional representation	0	**SUMMARY**	There is no cumulative voting or proportional representation for SA companies, regarding the voting for one candidate standing for election to the Board of Directors.	
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Any shareholder opposing the transformation of a company into another type, for example, into SARL, has the right to withdraw from the company and to have the company repurchase his shares. If an agreement cannot be reached regarding the value of the repurchase, the decision will be made by an expert chosen by the court (Article 221).	

		Article 221	Les actionnaires opposés à la transformation ont le doit de se retirer de la société. Dans ce cas, ils recevront une contrepartie équivalente à leurs droits dans le patrimoine social, fixée, à défaut d'accord, à dire d'expert désigné par le président du tribunal, statuant en référé. La déclaration de retraite doit être adressée par lettre recommandée avec accusé de réception dans les huit jours de la publication prévue à l'article 218 (2eme alinéa). […]	"Dahir n° 1-96-124", 30 August 1996
Preemptive right to new issues	1	**SUMMARY**	Shareholders have a right to buy a proportional number of shares of any future issue of common stock in order to maintain their fractional ownership. During the emission period of the new shares, this right to buy shares can be negotiated and traded under the same conditions as for the share itself (Article 189). The shareholders' general meeting in which the decision to increase capital is made can suppress these preemptive rights for a part of, or for the total, amount. The price of emission or the rules for fixing the price are decided by the board of directors. The board of directors publishes a report with the names of the people who can buy shares and the number of shares for each person.	
		Article 189	Les actionnaires ont un droit de préférence à la souscription des actions nouvelles de numéraire, proportionnellement au nombre d'actions qu'ils possèdent. […] Pendant la durée de la souscription, ce droit est négociable ou cessible dans les mêmes conditions que l'action elle-même. […]	"Dahir n° 1-96-124", 30 August 1996
		Article 193	L'assemblée générale qui décide de l'augmentation du capital, peut, en faveur d'une ou plusieurs personnes, supprimer le droit préférentiel de souscription. [...] Le rapport du conseil d'administration ou du directoire indique en outre les noms des attributaires des actions et le nombre de titres attributes à chacun d'eux. […]	
		Art 197	Le délai accordé aux actionnaires anciens pour exercer leur droit de souscription ne peut jamais être inférieur à vingt jours avant la date d'ouverture de la souscription. […]	
% of share capital to call an EGM	NA	**SUMMARY**	Contrary to French law, Moroccan law does not have any legislation pertaining to calling a meeting. Once a meeting is called, shareholders with more than five percent of the capital (or greater than two percent if total capital exceeds DH 5 million) can amend the agenda.	
		Article 117	L'ordre du jour des assemblées est arrêté par l'auteur de la convocation. Toutefois, un ou plusieurs actionnaires représentant au moins cinq pour cent du capital social ont la faculté de requérir l'inscription d'un ou de plusieurs projets de résolutions à l'ordre du jour. Lorsque le capital social de la société est supérieur à cinq millions de dirhams, le montant du capital à représenter en application de l'alinéa précédent est réduit à deux pour cent pour le surplus.	"Dahir n° 1-96-124", 30 August 1996

Mandatory dividend	0	**SUMMARY**	It is forbidden to guarantee shareholders a fixed dividend, unless the State guarantees shares a minimum dividend. It is the responsibility of the general meeting to decide which part of the net income will be paid as dividend (Article 331). Furthermore, the right to receive dividends is suppressed for shares the company holds.	
		Article 331	[…] Il est interdit de stipuler au profit des actionnaires un dividende fixe; toute clause contraire est réputée non écrite à moins que l'Etat n'accorde aux actions la garantie d'un dividende minimal.	"Dahir n° 1-96-124", 30 August 1996
		Article 334	Le droit aux dividendes est supprimé lorsque la société détient ses propres actions. […]	

Morocco – Creditor Rights

Rights		Relevant Article	Detail	Law
	GENERAL SUMMARY		Moroccan law provides for reorganisation and liquidation in the case of insolvency. The commercial code codifies both reorganisation and liquidation. If the situation of the company is hopeless, then the court chooses liquidation. Otherwise, the court chooses a "redressement judiciaire", which is the equivalent of reorganisation. Within four months, a "plan de redressement", explaining what will be done to get the company out of trouble, must be presented to the judges. After analysing this "plan de redressement", the court decides upon one of the following three options: 1) "plan de continuation", according to which the company can continue doing business; 2) "cession", under which the company is sold entirely or partially to another company; and 3) "liquidation judiciaire" or liquidation.	
Restrictions on going into reorganisation	0	**SUMMARY**	The CEO must file a request for reorganisation no later than fifteen days after becoming insolvent (Code of Commerce, Article 561). The procedure, namely appealing to court in order to gain one of the above-mentioned three decisions, can also be launched by a creditor, irrespective of the type of debt (Code of Commerce, Article 563). Nevertheless, creditor consent is not a condition for going into reorganisation.	
		Article 561	Le chef de l'entreprise doit demander l'ouverture d'une procédure de traitement au plus tard dans les quinze jours qui suivent la cessation de ses paiements.	"Dahir n° 1-96-83", 1 August 1996
		Article 563	La procédure peut être ouverte sur l'assignation d'un créancier quelle que soit la nature de sa créance. […]	
No automatic stay on assets	1	**SUMMARY**	There are no regulations on automatic stay on assets during the reorganisation period, "redressement judiciaire", in the relevant law.	
Secured creditors first (paid)	1	**SUMMARY**	Secured creditors are ranked first in the distribution of proceeds that result from the disposal of assets (Code of Commerce, Article630). These proceeds can be generated from the sale of fixed assets such as buildings (Code of Commerce, Article 622) or the sale of production assets (Code of Commerce, Article 623). Two different types of creditors are mentioned in the Code of Commerce: 1) "hypothécaires", which type of debt uses buildings as collateral and provides its creditors with absolute priority; and 2) "chirographaires" (Code of Commerce, Article 631), which have priority over equity holders but not the absolute majority. When a company goes bankrupt, it is forbidden to dispense even part of the assets to employees or employees' relatives (to the 2nd degree) (Article 366).	

		Article 630	Si une ou plusieurs distributions de sommes précèdent la répartition du prix des immeubles, les créanciers privilégiés et hypothécaires admis concourent aux répartitions dans la proportion de leurs créances totales. Après la vente des immeubles et le règlement définitif de l'ordre entre les créanciers hypothécaires et privilégiés, ceux d'entre eux qui viennent en rang utile sur le prix des immeubles pour la totalité de leur créance ne perçoivent le montant de leur collocation hypothécaire que sous la déduction des sommes par eux reçues. […]	"Dahir n° 1-96-83", 1 August 1996
		Article 366	La cession de tout ou partie de l'actif de la société en liquidation au liquidateur ou à ses employés, à leurs conjoints, parents ou alliés jusqu'au 2eme degré inclus est interdite même en cas de démission du liquidateur.	"Dahir n° 1-96-124", 30 August 1996
Management replaced	1	**SUMMARY**	The courts can decide to replace one or more directors if it decides this is crucial to the survival of the company.	
		Article 584	Lorsque la survie de l'entreprise le requiert, le tribunal sur la demande du syndic ou d'office peut subordonner l'adoption d'un plan de redressement de l'entreprise au remplacement d'un ou plusieurs dirigeants. A cette fin, le tribunal peut prononcer l'incessibilité des actions, parts sociales, certificats de droit de vote détenus par un ou plusieurs dirigeants de droit ou de fait, rémunérés ou non, et décider que le droit de vote attaché sera exercé pour une durée qu'il fixe par un mandataire de justice désigné à cet effet. Il peut encore ordonner la cession de ces actions ou parts sociales, le prix de cession étant fixé à dire d'expert. […]	"Dahir n° 1-96-83", 1 August 1996
Legal reserve	5%	**SUMMARY**	The company law states in article 329, the obligation of a legal reserve.	
		Article 329	A peine de nullité de toute délibération contraire, il est fait sur le bénéfice net de l' exercice, diminué le cas échéant, des pertes antérieures, un prélèvement de 5 % affecté à la formation d' un fonds de réserve appelé réserve légale. Ce prélèvement cesse d'être obligatoire lorsque le montant de la réserve légale excède le dixième du capital social. Il est effectué aussi sur le bénéfice de l' exercice, tous autres prélèvements en vue de la formation de réserves imposées soit par la loi, soit par les statuts ou de réserves facultatives dont la constitution peut être décidée, avant toute distribution, par décision de l' assemblée générale ordinaire.	"Dahir n° 1-96-124", 30 August 1996, portent loi n°17-95

Pakistan –Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Pakistan inherited the legal system prevalent in British India and therefore is a common law country. Generally the Companies Ordinance 1984 (XLVII of 1984) regulates companies. It is available at http://www.secp.gov.pk/laws.htm. The version available there was last updated by the Companies (Second Amendment) Ordinance, 2002. The SEC has formed a Company Law Review Commission with a mandate to review the Ordinance and suggest new amendments if any. Work is currently in progress. The listing rules of the Karachi Stock Exchange (KSE) (http://www.kse.com.pk, go to 'KSE' then 'Rules') are also referenced in this document.	
One share-one vote	0	**SUMMARY**	Pakistan company law (the ordinances) allows multiple classes of shares, each of which can have different voting rights.	
		Article 160	Provisions as to meetings and votes [...] (4) […] In the case of a company having a share capital, every member shall have votes proportionate to the paid-up value of the shares or other securities carrying voting rights held by him according to the entitlement of the class of such shares or securities, as the case may be: Provided that, at the time of voting, fractional votes shall not be taken into account.	Companies Ordinance 1984
		Article 90	Classes and kinds of share capital. (1) A company limited by share may have different kinds of share capital and classes therein as provided by its memorandum and articles: Provided that different rights and privileges in relation to the different classes of shares may only be conferred in such manner as may be prescribed.	
Proxy by mail allowed	0	**SUMMARY**	A member (shareholder) can send his proxy form, allowing the other person to vote on his behalf, by mail, but the proxy has to be present when voting.	
		Article 161	Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person, as his proxy to attend and vote instead of him, and a proxy so appointed shall have such rights as respects speaking and voting at the meeting as are available to a member…	Companies Ordinance 1984

Shares not blocked before meeting	1	**SUMMARY**	Shares are only lodged with the Company when required to be transferred. There is no mention in the law of the need to lodge shares with the Company or bank before an AGM or EGM. However, if the owner of the shares has not registered them in his own name in the members' register (the book that determines the ownership of shares) he will have to send them for transfer in his name to the company or its share registrar, to be entitled to receive any corporate action, attend the general meeting, etc. For this purpose the issuer of the security announces book-closure for a maximum period of thirty days at a time with a limit of aggregate 45 days during the year.	
		Listing Regulation 14(5)	14. (1) The company shall give a minimum of 21 days notice to the Exchange prior to closure of Share Transfer Books for any purpose. Provided that companies quoted on Futures Counter shall intimate to the Exchange the dates of book closure and corporate actions, if any, on or before 20th day of the month with a notice period of at least 21 days after the said 20th day for commencement of bank closure. (2) The company shall treat the date of posting as the date of lodgement of shares for the purpose for which shares transfer register is closed, provided that the posted documents are received by the company before relevant action has been taken by the company. (3) The company shall issue transfer receipts immediately on receiving the shares for transfer. (4) The company shall not charge any transfer fee for transfer of shares. (5) The company shall provide a minimum period of 7 days but not exceeding 30 days at a time for closure of Shares Transfer Register, for any purpose, not exceeding 45 days in a year in the whole.	Listing regulations of the Karachi Stock Exchange
Cumulative voting / proportional representation	1	**SUMMARY**	Article 178 of the Companies Ordinance allows cumulative voting. Concerning proportional representation, while under the Code of Corporate Governance (Listing Regulation 37 (i)) listed companies have been urged to encourage effective representation of independent non-executive directors including those representing minority shareholders on their Board of Directors, section 178 5c of the Ordinance provides procedure for election of Directors which clearly spells out that 'majority is authority.'	
		Article 178	Procedure for election of directors : […] (5) The directors of a company having a share capital shall, unless the number of persons who offer themselves to be elected is not more than the number of directors fixed under sub-section (1), be elected by the members of the company in general meeting in the following manner, namely : (a) a member shall have such number of votes as is equal to the product of the number of voting shares or securities held by him and the number of directors to be elected; (b) a member may give all his votes to a single candidate or divide them between more than one of the candidates in such manner as he may choose; and (c) the candidate who gets the highest number of votes shall be declared elected as director and then the candidate who gets the next highest number of votes shall be so declared and so on until the total number of directors to be elected has been so elected.	Companies Ordinance 1984

		Definition 21	"Member", means in relation to a company having share capital, a subscriber to the memorandum of the company and every person to whom is allotted or who becomes the holder of, any share, scrip or other security which gives him a voting right in the company and whose name is entered in the register of members, and, in relation to a company not having a share capital, any person who has agreed to become a member of the company and whose name is so entered.	
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Shareholders with ten percent or more have a judicial venue. For example, under section 263 of the Companies Ordinance, upon an application from members holding at least ten percent of the share capital, the Securities and Exchange Commission of Pakistan may appoint an inspector to investigate the affairs of the company. Investigation may also be started by order of the Court or after a resolution to that effect passes in a general meeting.	
		Article 263	Investigation of affairs of company on application by members or report by registrar: The Commission may appoint one or more competent persons as inspectors to investigate the affairs of any company and to report thereon in such manner as the Commission may direct (a) in the case of a company having a share capital, on the application of members holding not less than one-tenth of the total voting powers therein.	Companies Ordinance 1984
		Article 265	Investigation of company's affairs in other cases: Without prejudice to its power under Section 263, the Commission (a) shall appoint one or more competent persons as inspectors to investigate the affairs of a company and to report thereon in such manner as the Commission may direct, if (i) the company, by a resolution in general meeting, or (ii) the Court, by order, declares that the affairs of the company ought to be investigated by an inspector appointed by the Commission; and (b) may appoint one or more competent persons as inspectors to investigate the affairs of a company and to report thereon in such manner as the Commission may direct if in the opinion of the Commission there are circumstances suggesting (i) that the business of the company is being or has been conducted with intent to defraud its creditors, members or any other person or for a fraudulent or unlawful purpose, or in a manner oppressive of any of its members or that the company was formed for any fraudulent or unlawful purpose; or […] (iii) that the affairs of the company have been so conducted or managed as to deprive the members thereof of a reasonable return; or […]	
Preemptive right to new issues	1	**SUMMARY**	The ordinary shareholders have a preemptive right to any new issue of shares by the company.	

		Article 86	Further issue of capital: - (1) […] Where the directors decide to increase the capital of the company by the issue of further shares, such shares shall be offered to the members in proportion to the existing shares held by each member, irrespective of class, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined: Provided that the Federal Government may, on an application made by any public company on the basis of a special resolution passed by it, allow such company to raise its further capital without issue of right shares: Provided further that a public company may reserve a certain percentage of further issue of its employees under "Employees Stock Option Scheme" to be approved by the Commission in accordance with the rules made under this Ordinance. (2) […] The offer of new shares shall be strictly in proportion to the number of existing shares held: Provided that fractional shares shall not be offered and all fractions less than a share shall be consolidated and disposed of by the company and the proceeds from such disposition shall be paid to such of the entitled shareholders as may have accepted such offer. […] (7) […] If the whole or any part of the shares offered under sub-section (1) is declined or is not subscribed, the directors may allot and issue such shares in such manner as they may deem fit.	Companies Ordinance 1984
% share capital to call an ESM	10%	**SUMMARY**	Section 159 of the Companies Ordinance states that shareholders holding at least ten percent of the voting rights can call an Extraordinary General Meeting.	
		Article 159	Calling of extraordinary general meeting. - (1) […] All general meetings of a company, other than the annual general meeting referred to in section 158 and the statutory meeting mentioned in section 157, shall be called extraordinary general meetings. (2) […] The directors may at any time call an extraordinary general meeting of the company to consider any matter which requires the approval of the company in a general meeting, and shall, on the requisition of members representing not less than one-tenth of the voting powers on the date of deposit of the requisition, forthwith proceed to call an extraordinary general meeting.	Companies Ordinance 1984
Mandatory dividend	0	SUMMARY	Dividend payments must comply with Ordinance 248 and 249. There is no compulsion on listed companies to pay dividend. However, as part of good governance, the Listing Regulation 32 (1) b requires a payment of cash dividend or bonus shares (stock dividend) once every five years of operations with no minimum percentage threshold. Non-compliance of this requirement can result in placement of the company on defaulters' counter, suspension in trading of its shares or delisting of the company.	

		Article 248	Certain restrictions on declaration of dividends. […] (1) […] The company in general meeting may declare dividends; but no dividend shall exceed the amount recommended by the directors. (2) […] No dividend shall be declared or paid by a company for any financial year out of the profits of the company made from the sale or disposal of any immovable property or assets of a capital nature comprised in the undertaking or any of the undertakings of the company, unless the business of the company consists, whether wholly or partly, of selling and purchasing any such property or assets, except after such profits are set off or adjusted against losses arising from the sale of any such immovable property or assets of a capital nature.	Companies Ordinance 1984
		Article 249	Dividend to be paid only out of profits. No dividend shall be paid by a company otherwise than out of profits of the company.	
		Listing regulation 32	(1) A listed company may be de-listed, suspended or placed on the Defaulters' Counter, for any of the following reasons:- […] (b) if it has failed to declare dividend or bonus:- (i) for five years from the date of declaration of last dividend or bonus; or (ii) in the case of manufacturing companies, for five years from the date of commencement of production; and (iii) for five years from the date of commencement of business in all other cases.	Listing regulations of the Karachi Stock Exchange

Pakistan – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Pakistan's insolvency regime is a derivative of the legal system prevalent in British India prior to its establishment. Winding Up or liquidation law applies to companies and is contained in the Companies Ordinance 1984, although it also refers to the bankruptcy law contained in the Provincial Insolvency Act 1920 and the Insolvency (Karachi Division) Act 1090. Corporate rescue i.e. restructuring or receivership, is also covered by the Companies Ordinance. Additionally, new legislation has been enacted in 1997 to provide for recovery of corporate debt by banks and development finance institutions, namely the Banking Companies (Recovery of loans, advances, credits and finances) Act 1997. Recovery of debts due may also be initiated under the Civil Procedure Code, 1882.	
Restrictions on going into reorganisation	1	**SUMMARY**	Article 284 provides for creditors consent during compromises and arrangements.	
		Article 284	Power to compromise with creditors and members. (1) […] Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be called, held and conducted in such manner as the Court directs. (2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members, as the case may be, present and voting either in person or, where proxies are allowed, by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court be binding on all the creditors or the class of creditors or on all the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.	Companies Ordinance 1984
No automatic stay on assets	1	**SUMMARY**	There is no automatic stay on assets in case of reorganisation. Courts may stay assets, but do not have to.	
		Article 284	Power to compromise with creditors and members (5) […] The Court may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the company on such terms as it thinks fit and proper until the application is finally disposed of.	Companies Ordinance 1984

Secured creditors first (paid)	1	**SUMMARY**	When winding up an insolvent company, section 404 of the Companies Ordinance, 1984, stipulates that the Insolvency law is applicable. Under Section 47 of the Provincial Insolvency Act, 1920, a secured creditor may himself realise the security and prove for the balance due to him in the winding up proceedings. Any remaining debt is treated as unsecured and article 405 of the companies act then stipulates the order of payouts. In a creditors voluntary winding up all costs, charges and expenses incurred in the winding up including the remuneration of the liquidator shall after settlement of secured debts be paid out of the assets of the company in priority to all other claims (see section393).	
		Article 405	Preferential payments. (1) […] In a winding up, there shall be paid in priority to all other debts (a) […] all revenues, taxes, cesses and rates due from the company to the Federal Government or a Provincial Government or to a local authority at the relevant date and having become due and payable within the twelve months next before that date; (b)[…] all wages or salary (including wages payable for time or piece work and salary earned wholly or in part by way of commission) of any employee in respect of services rendered to the company and due for a period not exceeding four months within the twelve months next before the relevant date and any compensation payable to any workman under any law for the time being in force, subject to the limit specified in sub-section (2); […] (g) […] the expenses of any investigation held in pursuance of section 263 or section 265 in so far as they are payable by the company. […]	Companies Ordinance 1984
		Article 404	Application of insolvency rules in winding up of insolvent companies: In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent; and all persons who in any such case would be entitled to prove for and receive dividend out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.	
		Article 47	(1) Where a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised. (2) Where a secured creditor relinquishes his security for the general benefit of the creditors, he may prove for his whole debt.	Provincial Insolvency Act 1920
		Article 393	Costs of voluntary winding up: All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall subject to the rights of secured creditors, if any, be payable out of the assets of the company in priority to all other claims.	Companies Ordinance 1984

Management replaced	0	**SUMMARY**	There is no provision in the Ordinance requiring that the management be replaced during the reorganisation (i.e. in Articles 284 to 289 of the Companies Ordinance). However, in practice Courts usually appoint an official to oversee the running of the business.	
Legal reserve	0	**SUMMARY**	There are no legal requirements to maintain any level of capital to avoid automatic liquidation. However, the creditors can request for an administrator to be appointed if the shares drop in value by more than seventy five percent.	
		Article 295	Management by Administrator: (1) If at any time a creditor or creditors having interest equivalent in amount to not less than sixty per cent, of the paid up capital of a company, represents or represent to the Commission that:- […] (d) any industrial project or unit to be set up or belonging to the company has not been completed or has not commenced operations or has not been operating smoothly or its production or performance has so deteriorated that – (i) the market value of its shares as quoted on the stock exchange or the net worth of its share has fallen by more than seventy-five per cent of its par value; or […] and request the Commission to take action under this section, the Commission may, after giving the company an opportunity of being heard, without prejudice to any other action that may be taken under this Ordinance or any other law, by order in writing, appoint an Administrator, hereinafter referred to as the Administrator within sixty days of the date of receipt of the representation, from a panel maintained by it on the recommendation of the State Bank of Pakistan to manage the affairs of the company subject to such terms and conditions as may be specified in the order.	Companies Ordinance 1984

Peru – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The corporate legal framework of Peru is set out in the Company Law -- Number 26,887 of 1997 (Ley General de Sociedades -- Numero 26,887 de 1997).	
One share -one vote	1	**SUMMARY**	Ordinary shares have one vote per share (Article 82). The rights of this type of share are given in Article 95. The exception to the one share-one vote principle refers to the cumulative voting rights of minority shareholders as established in Article 164.	
		Artículo 82	Definición de acción Las acciones representan partes alícuotas del capital, todas tienen el mismo valor nominal y dan derecho a un voto, con la excepción prevista en el artículo 164 (elección por voto acumulativo) y las demás contempladas en la presente Ley.	Ley General de Sociedades
Proxy by mail allowed	0	**SUMMARY**	Article 122, which describes the proxy rights of shareholders, makes no explicit reference to proxy by mail.	
		Artículo 122	Representación en la Junta General Todo accionista con derecho a participar en las juntas generales puede hacerse representar por otra persona. El estatuto puede limitar esta facultad, reservando la representación a favor de otro accionista, o de un director o gerente. La representación debe constar por escrito y con carácter especial para cada junta general, salvo que se trate de poderes otorgados por escritura pública. Los poderes deben ser registrados ante la sociedad con una anticipación no menor de veinticuatro horas a la hora fijada para la celebración de la junta general.[...]	Ley General de Sociedades
Shares not blocked before meeting	1	**SUMMARY**	There is no article requiring that shares must be blocked before or after a shareholders meeting. Article 121 only refers to the requirement of shares to be registered in the registry book (Matrícula de acciones - Article 92) at least two days prior to the shareholders meeting.	
		Artículo 121	Derecho de concurrencia a la junta general Pueden asistir a la junta general y ejercer sus derechos los titulares de acciones con derecho a voto que figuren inscritas a su nombre en la matrícula de acciones, con una anticipación no menor de dos días al de la celebración de la junta general. [...]	Ley General de Sociedades

		Artículo 92	Matrícula de acciones En la matrícula de acciones se anota la creación de acciones cuando corresponda de acuerdo a lo establecido en el artículo 83. Igualmente se anota en dicha matrícula la emisión de acciones, según lo establecido en el artículo 84, sea que estén representadas por certificados provisionales o definitivos. En la matrícula se anotan también las transferencias, los canjes y desdoblamientos de acciones, la constitución de derechos y gravámenes sobre las mismas, las limitaciones a la transferencia de las acciones y los convenios entre accionistas o de accionistas con terceros que versen sobre las acciones o que tengan por objeto el ejercicio de los derechos inherentes a ellas. La matrícula de acciones se llevará en un libro especialmente abierto a dicho efecto o en hojas sueltas, debidamente legalizados, o mediante anotaciones en cuenta o en cualquier otra forma que permita la ley. Se podrá usar simultáneamente dos o más de los sistemas antes descritos; en caso de discrepancia prevalecerá lo anotado en el libro o en las hojas sueltas, según corresponda. El régimen de la representación de valores mediante anotaciones en cuenta se rige por la legislación del mercado de valores.	
Cumulative voting / proportional representation	1	**SUMMARY**	Minorities have the right to be represented in the Board of Directors through cumulative voting. When there are different types of shares with different rights to vote for a certain number of directors, each type of shareholder meets and casts its votes separately, but in each case cumulative voting will be observed.	
		Artículo 164	Elección por voto acumulativo Las sociedades están obligadas a constituir su directorio con representación de la minoría. A ese efecto, cada acción da derecho a tantos votos como directores deban elegirse y cada votante puede acumular sus votos a favor de una sola persona o distribuirlos entre varias. Serán proclamados directores quienes obtengan el mayor número de votos, siguiendo el orden de éstos. Si dos o más personas obtienen igual número de votos y no pueden todas formar parte del directorio por no permitirlo el número de directores fijado en el estatuto, se decide por sorteo cuál o cuáles de ellas deben ser los directores. Cuando existan diversas clases de acciones con derecho a elegir un número determinado de directores se efectúan votaciones separadas en juntas especiales de los accionistas que representen a cada una de esas clases de acciones pero cada votación se hará con el sistema de participación de la minoría. Salvo que los directores titulares hubiesen sido elegidos conjuntamente con sus respectivos suplentes o alternos, en los casos señalados en el párrafo final del artículo 157, se requiere el mismo procedimiento antes indicado para la elección de éstos. El estatuto puede establecer un sistema distinto de elección, siempre que la representación de la minoría no resulte inferior. No es aplicable lo dispuesto en el presente artículo cuando los directores son elegidos por unanimidad.	Ley General de Sociedades

Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Article 200 establishes that a shareholder may withdraw from the company either because the company has taken a decision of which he disapproves, or because he was deprived from casting his vote on the matter being discussed, or because he could not be present at the time of voting. In case of withdrawal, the shares belonging to the shareholder must be repurchased at a price agreed by him and the society. If no such agreement can be reached, the shares should be repurchased at a price equal to their weighted-average price over the last six months. In addition, Article 262 includes the provisions that, in the case of public companies (Sociedades Anónimas Abiertas), a company that buys itself out of the market should give its shareholders the right to withdraw and to have their respective share participation repurchased.	
		Artículo 200	Derecho de separación del accionista. La adopción de los acuerdos que se indican a continuación, concede el derecho a separarse de la sociedad: 1. El cambio del objeto social; 2. El traslado del domicilio al extranjero; 3. La creación de limitaciones a la transmisibilidad de las acciones o la modificación de las existentes; y, 4. En los demás casos que lo establezca la ley o el estatuto. Sólo pueden ejercer el derecho de separación los accionistas que en la junta hubiesen hecho constar en acta su oposición al acuerdo, los ausentes, los que hayan sido ilegítimamente privados de emitir su voto y los titulares de acciones sin derecho a voto. Aquellos acuerdos que den lugar al derecho de separación deben ser publicados por la sociedad, por una sola vez, dentro de los diez días siguientes a su adopción, salvo aquellos casos en que la ley señale otro requisito de publicación. El derecho de separación se ejerce mediante carta notarial entregada a la sociedad hasta el décimo día siguiente a la fecha de publicación del aviso a que alude el acápite anterior. Las acciones de quienes hagan uso del derecho de separación se reembolsan al valor que acuerden el accionista y la sociedad. De no haber acuerdo, las acciones que tengan cotización en Bolsa se reembolsarán al valor de su cotización media ponderada del último semestre. Si no tuvieran cotización, al valor en libros al último día del mes anterior al de la fecha del ejercicio del derecho de separación. El valor en libros es el que resulte de dividir el patrimonio neto entre el número total de acciones.	Ley General de Sociedades

		Artículo 262	Derecho de separación Cuando una sociedad anónima abierta acuerda excluir del Registro Público del Mercado de Valores las acciones u obligaciones que tiene inscritas en dicho registro y ello determina que pierda su calidad de tal y que deba adaptarse a otra forma de sociedad anónima, los accionistas que no votaron a favor del acuerdo, tienen el derecho de separación de acuerdo con lo establecido en el artículo 200. El derecho de separación debe ejercerse dentro de los diez días siguientes a la fecha de inscripción de la adaptación en el Registro.	
Preemptive right to new issues	1	**SUMMARY**	Article 207 establishes the right of incumbent shareholders to purchase new share issues pro-rata to the number of shares they own. In addition, by shareholders' agreement, in the case of public companies (those owned by at least 750 shareholders) shareholders can waive their preemptive rights, unless it could be proven that by doing so any shareholder could hold a majority stake of company shares (Item 2 of Article 259).	
		Artículo 207	Derecho de suscripción preferente En el aumento de capital por nuevos aportes, los accionistas tienen derecho preferencial para suscribir, a prorrata de su participación accionaria, las acciones que se creen. Este derecho es transferible en la forma establecida en la presente ley. No pueden ejercer este derecho los accionistas que se encuentren en mora en el pago de los dividendos pasivos, y sus acciones no se computarán para establecer la prorrata de participación en el derecho de preferencia. No existe derecho de suscripción preferente en el aumento de capital por conversión de obligaciones en acciones, en los casos de los artículos 103 y 259 ni en los casos de reorganización de sociedades establecidos en la presente ley.	Ley General de Sociedades
		Artículo 259	Aumento de capital sin derecho preferente En el aumento de capital por nuevos aportes a la sociedad anónima abierta se podrá establecer que los accionistas no tienen derecho preferente para suscribir las acciones que se creen siempre que se cumplan los siguientes requisitos: 1. Que el acuerdo haya sido adoptado en la forma y con el quórum que corresponda, conforme a lo establecido en el artículo 257 y que además cuente con el voto de no menos del cuarenta por ciento de las acciones suscritas con derecho de voto; y, 2. Que el aumento no esté destinado, directa o indirectamente, a mejorar la posición accionaria de alguno de los accionistas. Excepcionalmente, se podrá adoptar el acuerdo con un número de votos menor al indicado en el inciso 1. anterior, siempre que las acciones a crearse vayan a ser objeto de oferta pública.	
% of share capital to call an ESM	20%	**SUMMARY**	Shareholders whose share ownership represents at least twenty percent of total outstanding share capital are allowed to call for an Extraordinary Shareholders Meeting.	

		Artículo 117	Convocatoria a solicitud de accionistas Cuando uno o más accionistas que representen no menos del veinte por ciento de las acciones suscritas con derecho a voto soliciten notarialmente la celebración de la junta general, el directorio debe publicar el aviso de convocatoria dentro de los quince días siguientes a la recepción de la solicitud respectiva, la que deberá indicar los asuntos que los solicitantes propongan tratar. La junta general debe ser convocada para celebrarse dentro de un plazo de quince días de la fecha de la publicación de la convocatoria. Cuando la solicitud a que se refiere el acápite anterior fuese denegada o transcurriesen más de quince días de presentada sin efectuarse la convocatoria, el o los accionistas, acreditando que reúnen el porcentaje exigido de acciones, podrán solicitar al juez de la sede de la sociedad que ordene la convocatoria por el proceso no contencioso. Si el Juez ampara la solicitud, ordena la convocatoria, señala lugar, día y hora de la reunión, su objeto, quien la presidirá y el notario que dará fe de los acuerdos.	Ley General de Sociedades
Mandatory dividend	0	**SUMMARY**	There is no mandatory dividend. Shareholders whose share ownership represents at least 20 percent of the total outstanding share capital can request for the payment of a mandatory dividend of up to 50 percent of net income. This payment is allowed only after accounting for the legal reserve requirements (Article 229).	
		Artículo 231	Dividendo obligatorio Es obligatoria la distribución de dividendos en dinero hasta por un monto igual a la mitad de la utilidad distribuible de cada ejercicio, luego de detraído el monto que debe aplicarse a la reserva legal, si así lo solicitan accionistas que representen cuando menos el veinte por ciento del total de las acciones suscritas con derecho a voto. Esta solicitud sólo puede referirse a las utilidades del ejercicio económico inmediato anterior. El derecho de solicitar el referido reparto de dividendos no puede ser ejercido por los titulares de acciones que estén sujetas a régimen especial sobre dividendos.	Ley General de Sociedades

Peru – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Winding-up and reorganisation law applies to companies as established in the Bankruptcy Law enacted in September 2002 (Ley General del Sistema Concursal de 2002, Número 27,809). Additionally, the Peruvian Commercial Law (Ley General de Sociedades, Número 26,887) provides information about the mandatory legal reserve.	
Restrictions on going into reorganisation	1	**SUMMARY**	Article II describes the purpose of a reorganisation proceeding. In Article III, creditors are given the right to approve the reorganisation proceedings according to the market viability of the company.	
		Artículo II	Finalidad de los procedimientos concursales Los procedimientos concursales tienen por finalidad propiciar un ambiente idóneo para la negociación entre los acreedores y el deudor sometido a concurso, que les permita llegar a un acuerdo de reestructuración o, en su defecto, a la salida ordenada del mercado, bajo reducidos costos de transacción.	Ley del Sistema Concursal
		Artículo III	Decisión sobre el destino del deudor La viabilidad de los deudores en el mercado es definida por los acreedores involucrados en los respectivos procedimientos concursales, quienes asumen la responsabilidad y consecuencias de la decisión adoptada.	
No automatic stay on assets	0	**SUMMARY**	There is an automatic stay on assets. Only Article 17, item 17.3 describes a case where a secured creditor could claim access to his collateral if it belongs to a third party, and thus this collateral is not an obligation that pertains directly to the debtor company. Item 17.1 describes that starting on the date the company files for reorganisation, all outstanding obligations and payments are frozen. Item 17.2 describes that this freeze will last until the Creditors meet and define the future of the company, be it through its reorganisation, refinancing or liquidation. Item 17.3 describes the rights of creditors to go after their collateralised assets in cases where those assets belong to a third party. Item 17.4 describes the case where the company under insolvency proceedings belongs to a parent company domiciled in a foreign country. In this case, creditors are allowed to claim for the payment of their loans to the parent company through the appropriate legal venues.	

		Artículo 17	Suspensión de la exigibilidad de obligaciones 17.1 A partir de la fecha de la publicación a que se refiere el Artículo 32º, se suspenderá la exigibilidad de todas las obligaciones que el deudor tuviera pendientes de pago a dicha fecha, sin que este hecho constituya una novación de tales obligaciones, aplicándose a éstas, cuando corresponda, la tasa de interés que fuese pactada por la Junta de estimarlo pertinente. En este caso, no se devengará intereses moratorios por los adeudos mencionados, ni tampoco procederá la capitalización de intereses. 17.2 La suspensión durará hasta que la Junta apruebe el Plan de Reestructuración, el Acuerdo Global de Refinanciación o el Convenio de Liquidación en los que se establezcan condiciones diferentes, referidas a la exigibilidad de todas las obligaciones comprendidas en el procedimiento y la tasa de interés aplicable en cada caso, lo que será oponible a todos los acreedores comprendidos en el concurso. 17.3 La inexigibilidad de las obligaciones del deudor no afecta que los acreedores puedan dirigirse contra el patrimonio de los terceros que hubieran constituido garantías reales o personales a su favor, los que se subrogarán de pleno derecho en la posición del acreedor original. 17.4 En el caso de concurso de una sucursal la inexigibilidad de sus obligaciones no afecta la posibilidad de que los acreedores puedan dirigirse por las vías legales pertinentes contra el patrimonio de la principal situada en territorio extranjero.	Ley del Sistema Concursal
Secured creditors first (paid)	0	**SUMMARY**	Article 42 establishes that workers are given absolute priority in cases of dissolution or liquidation of the company.	
		Artículo 42	Orden de preferencia 42.1 En los procedimientos de disolución y liquidación, el orden de preferencia en el pago de los créditos es el siguiente: Primero: Remuneraciones y beneficios sociales adeudados a los trabajadores, aportes impagos al Sistema Privado de Pensiones o a los regímenes previsionales administrados por la Oficina de Normalización Previsional, la Caja de Beneficios y Seguridad Social del Pescador u otros regímenes previsionales creados por ley, así como los intereses y gastos que por tales conceptos pudieran originarse. Los aportes impagos al Sistema Privado de Pensiones incluyen expresamente los conceptos a que se refiere el Artículo 30º del Decreto Ley Nº 25897 [T.199,§054], con excepción de aquéllos establecidos en el literal c) de dicho artículo; Segundo: Los créditos alimentarios, hasta la suma de una (1) Unidad Impositiva Tributaria mensual; Tercero: Los créditos garantizados con hipoteca, prenda, anticresis, warrants, derecho de retención o medidas cautelares que recaigan sobre bienes del deudor, siempre que la garantía correspondiente haya sido constituida o la medida cautelar correspondiente haya sido trabada con anterioridad a la fecha de publicación a que se refiere el Artículo 32. Las citadas garantías o gravámenes, de ser el caso, deberá estar inscrita en el	Ley del Sistema Concursal

			registro antes de dicha fecha, para ser oponibles a la masa de acreedores. Estos créditos mantienen el presente orden de preferencia aun cuando los bienes que los garantizan sean vendidos o adjudicados para cancelar créditos de órdenes anteriores, pero sólo hasta el monto de realización o adjudicación del bien que garantizaba los créditos; Cuarto: Los créditos de origen tributario del Estado, incluidos los del Seguro Social de Salud - ESSALUD, sean tributos, multas, intereses, moras, costas y recargos; y, Quinto: Los créditos no comprendidos en los órdenes precedentes; y la parte de los créditos tributarios que, conforme al literal d) del Artículo 48.3, sean transferidos del cuarto al quinto orden; y el saldo de los créditos del tercer orden que excedieran del valor de realización o adjudicación del bien que garantizaba dichos créditos. 42.2 Cualquier pago efectuado por el deudor a alguno de sus acreedores, en ejecución del Plan de Reestructuración o el Convenio de Liquidación, será imputado, en primer lugar, a las deudas por concepto de capital luego a gastos e intereses, en ese orden.	
Management replaced	1	**SUMMARY**	The Creditors Assembly will be responsible for choosing the company's management during the reorganisation proceedings. Creditors can opt for one of three options: (1) to keep the old management team (article 61.1 item 'a'); (2) to replace the management (item 'b'); (3) or to create a mixed management body (item 'c'). Items 61.2 and 61.2 deal with the general provisions of keeping the old management team. Item 61.4 deals with the general provisions of changing management. Item 61.5 deals with the general provisions of creating a mixed management team. In this case, two directors representing creditors are appointed to the board. They have voting rights and veto powers for any agreement related to the disposition of the company's assets.	

		Artículo 61	Régimen de administración 61.1 La Junta acordará el régimen de administración temporal del deudor durante su reestructuración patrimonial. Para este efecto, podrá disponer: a) La continuación del mismo régimen de administración; b) La administración del deudor por un Administrador inscrito ante la Comisión de conformidad con lo establecido en el Artículo 120; o, c) Un sistema de administración mixta que mantenga en todo o en parte la administración del deudor e involucre obligatoriamente la participación de personas naturales y/o jurídicas designadas por la Junta. [...] 61.4 Si la Junta opta por la alternativa prevista en el literal b) del primer párrafo del presente artículo, la administración designada sustituirá de pleno derecho en sus facultades legales y estatutarias a los directores, gerentes, representantes legales y apoderados del deudor, sin reserva ni limitación alguna, pudiendo celebrar toda clase de actos y contratos. 61.5 Si la Junta opta por el régimen de administración mixto, designará a las personas que ocuparán los cargos administrativos y directivos que considere pertinentes. El Presidente de la Junta, bajo responsabilidad, informará a la Comisión, dentro del plazo de quince (15) días de adoptado el acuerdo, sobre la nueva estructura organizativa del deudor concursado, el nombre de los responsables de cada cargo y su fecha de designación. Las personas que gocen de facultades de representación del deudor mantendrán dichas facultades hasta que las mismas sean revocadas.	Ley del Sistema Concursal
Legal reserve	20%	**SUMMARY**	Article 229 establishes that the legal reserve must reach twenty percent of the share capital by allocating a minimum of ten percent from the net income each year until the twenty percent requirement is met.	
		Artículo 229	Reserva legal Un mínimo del diez por ciento de la utilidad distribuible de cada ejercicio, deducido el impuesto a la renta, debe ser destinado a una reserva legal, hasta que ella alcance un monto igual a la quinta parte del capital. El exceso sobre este límite no tiene la condición de reserva legal. Las pérdidas correspondientes a un ejercicio se compensan con las utilidades o reservas de libre disposición. En ausencia de éstas se compensan con la reserva legal. En este último caso, la reserva legal debe ser repuesta. La sociedad puede capitalizar la reserva legal, quedando obligada a reponerla. La reposición de la reserva legal se hace destinando utilidades de ejercicios posteriores en la forma establecida en este artículo.	Ley General de Sociedades

Philippines – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			In the Philippines, shareholders' rights are provided for in the legislation, the Corporation Code of the Philippines (Batas Pambansa Bilang 68), 1980. The Code guarantees shareholders the right to: elect, remove and replace directors; vote on certain corporate acts; subscribe to the capital stock of the corporation; obtain information about the company; receive returns on their investment; appoint auditors; and dissent on certain decisions of the board. To afford greater protection to shareholders, SEC Memorandum Circular No. 4 issued on March 17, 2004 enforced and clarified Sections 16, 24, and 52, relating respectively to voting by mail, one share-one vote policy, and outstanding capital stock. The Articles of Incorporation lay down the specific rights and powers of shareholders with respect to the particular shares they hold, all of which are protected by law so long as they are not in conflict with the Corporation Code. The Securities Regulation Code (Republic Act No. 8799), 2000, introduced stricter rules related to listing, shareholder representation, board structure, and legal action against directors. The Securities and Exchange Commission (SEC) in its Resolution No.135, Series of 2002 dated April 04 2002, approved the promulgation and implementation of SEC Memorandum Circular No. 2 of 2002, the "Code of Corporate Governance". Compliance with this code is compulsory for all registered or listed corporations.	c.f. Worldbank Philippines ROSC, ADB Asia Economic Monitor July 2002 and August 27, 2004 Press Release of Bangko Sentral ng Pilipinas "Financial Reforms Unveiled to Further Strengthen the Philippine Banking System and Develop the Capital Markets"
One share-one vote	1	**SUMMARY**	The Articles of Incorporation may divide the shares of stock of the corporation into classes and provide different rights, privileges and restrictions to each class of shares. The most common classes are common and preferred shares. The Code allows the issuance of non-voting shares so long as the company has another class of shares with complete voting rights. Other types of shares allowed under the Code are redeemable shares, founders' shares and treasury shares. The Corporation Code specifies that, unless provided in the articles of incorporation, all shares are equal. The Code also entitles non-voting shares to vote on specified matters. Pursuant to the March 17, 2004 issuance of the SEC Memorandum Circular No. 4, one share carries one vote and all common shares are to be equal, so that corporations cannot issue multiple voting and non-voting common shares or cap the number of votes per shareholder regardless of the number of shares he possesses.	c.f. Worldbank Philippines ROSC http://www.worldbank.org/ifa/Philippinesrosc.pdf and SEC Memorandum Circular No. 4, effective as of March 17, 2004

		Sec. 6	Classification of shares. – The shares of stock corporations may be divided into classes or series of shares, or both, any of which classes or series of shares may have such rights, privileges or restrictions as may be stated in the articles of incorporation: Provided, that no share may be deprived of voting rights except those classified and issued as "preferred" or "redeemable" shares, unless otherwise provided in this Code: Provided, further, that there shall always be a class or series of shares which have complete voting rights. […] Except as otherwise provided in the articles of incorporation and stated in the certificate of stock, each share shall be equal in all respects to every other share. Where the articles of incorporation provide for non-voting shares in the cases allowed by this Code, the holders of such shares shall nevertheless be entitled to vote on the following matters: Amendment of the articles of incorporation; Adoption and amendment of by-laws; Sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all of the corporate property; Incurring, creating or increasing bonded indebtedness; Increase or decrease of capital stock; Merger or consolidation of the corporation with another corporation or other corporations; Investment of corporate funds in another corporation or business in accordance with this Code; and Dissolution of the corporation. Except as provided in the immediately preceding paragraph, the vote necessary to approve a particular corporate act as provided in this Code shall be deemed to refer only to stocks with voting rights.	The Corporation Code of the Philippines
		Provision 2	One Share – One Vote Policy Pursuant to Section 24 of the Corporation Code, one share is entitled to one vote. Voting shall always be on the basis of the number of shares and not on the number of stockholders present in the stockholders' meeting. Common shares shall have complete voting rights and such shares cannot be deprived of such rights except as provided by law. Each common share shall be equal in all respects to every other common share. Corporations are hereby prohibited from issuing multiple voting and non-voting common shares nor can they limit the maximum number of votes per stockholder irrespective of the number of shares he holds.	SEC Memorandum Circular No. 4, effective as of March 17, 2004
Proxy by mail allowed	1	**SUMMARY**	Shareholders have the right to proxy by mail.	

		Provision 1	Voting by Mail Stockholders attending stockholders' meetings shall vote their shares as provided by existing laws. Stockholders shall have the right to vote at all stockholders' meetings in person or by proxy. The stockholder may deliver, in person or by mail, his proxy vote directly to the corporation. In cases provided in Section 16 of the Corporation Code of the Philippines where written assent is allowed, the same number of votes shall be observed and voting can likewise be done by proxy. The stockholder may designate any person of his choice to act as his proxy. Absent such designation, the Chairman of the meeting shall be deemed authorized and hereby directed to cast the vote as indicated by the voting stockholder or his proxy. The proxy must be dated. If a duly accomplished and executed proxy is undated, the postmark or date of dispatch indicated in the electronic mail or, if not mailed, its actual date of presentation, shall be considered as the date of proxy. Where the corporation receives more than one (1) proxy from the same stockholder and they are all undated, the postmark or electronic dates shall be considered. If the proxies are mailed on the same date, the one bearing the latest time of day indicated in the postmark or latest time of dispatch appearing in the electronic mail shall prevail. If the proxies are not mailed, then the time of their actual presentation is considered. That which is presented last will be recognized. If the stockholder intends to designate several proxies, the number of shares of stock to be represented by each proxy shall be specifically indicated in the proxy form. If some of the proxy forms do not indicate the number of shares, the total shareholding of the stockholder shall be tallied and the balance thereof, if any, shall be allotted to the holder of the proxy form without the number of shares. If all are in blank, the stocks shall be distributed equally among the proxies. The number of persons to be designated as proxies may be limited by the By-laws.	SEC Memorandum Circular No. 4, effective as of March 17, 2004
Shares not blocked before meeting	1	**SUMMARY**	There is no such requirement in the laws.	
Cumulative voting / proportional representation	1	**SUMMARY**	The Corporation Code defines and allows cumulative voting. The SEC Code of Corporate Governance mandates the use of cumulative voting in the election of directors. Proportional representation is not mentioned in legislation or rule.	
		Sec. 24	Sec. 24. Election of directors or trustees. In stock corporations, every stockholder entitled to vote shall have the right to vote in person or by proxy the number of shares of stock standing, at the time fixed in the by-laws, in his own name on the stock books of the corporation, or where the by-laws are silent, at the time of the election; and said stockholder may vote such number of shares for as many persons as there are directors to be elected or he may cumulate said shares and give one candidate as many votes as the number of directors to be elected multiplied by the number of his shares	The Corporation Code of the Philippines

			shall equal, or he may distribute them on the same principle among as many candidates as he shall see fit:	
		V. para 1	1.Voting Right The Code mandates the use of cumulative voting in the election of directors.	SEC Code of Corporate Governance – V. Stockholder's Rights and Protection of Minority Shareholders' Interests
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	A shareholder has the right to dissent and demand payment of the fair value of his/her shares (appraisal right). The Corporation Code allows the exercise of the shareholders' appraisal rights when there are major changes in the company that have been adopted, including: a) an amendment to the articles of incorporation which changed or restricted his/her rights as a holder of a class of shares, or authorised preferences that are superior to those of the outstanding shares of any class; b) the term of corporate existence is extended or shortened; c) all or substantially all of the corporate assets will be disposed; d) the company will merge or consolidate with another company; and e) corporate funds will be invested in another corporation or business.	c.f. Worldbank Philippines ROSC
		Sec. 81	Sec. 81. Instances of appraisal right. - Any stockholder of a corporation shall have the right to dissent and demand payment of the fair value of his shares in the following instances: 1) In case any amendment to the articles of incorporation has the effect of changing or restricting the rights of any stockholder or class of shares, or of authorizing preferences in any respect superior to those of outstanding shares of any class, or of extending or shortening the term of corporate existence; 2) In case of sale, lease, exchange, transfer, mortgage, pledge or other disposition of all or substantially all of the corporate property and assets as provided in the Code; and 3) In case of merger or consolidation.	The Corporation Code of the Philippines
		Sec. 82	Sec. 82. How right is exercised. - The appraisal right may be exercised by any stockholder who shall have voted against the proposed corporate action, by making a written demand on the corporation within thirty (30) days after the date on which the vote was taken for payment of the fair value of his shares:	
		Sec. 85	Sec. 85. Who bears costs of appraisal. - The costs and expenses of appraisal shall be borne by the corporation, unless the fair value ascertained by the appraisers is approximately the same as the price which the corporation may have offered to pay the stockholder, in which case they shall be borne by the latter. In the case of an action to recover such fair value, all costs and expenses shall be assessed against the corporation, unless the refusal of the stockholder to receive payment was unjustified.	

Preemptive right to new issues	1	**SUMMARY**	The Corporation Code and the SEC Code of Corporate Governance mandate that all stockholders have preemptive rights, unless there is a specific denial of this right in the articles of incorporation, which is not common. The PSE may require a public company to submit certification that all stockholders have waived their preemptive rights prior to a public offering.	c.f. Worldbank Philippines ROSC
		Sec. 39	Sec. 39. Power to deny pre-emptive right. - All stockholders of a stock corporation shall enjoy pre-emptive right to subscribe to all issues or disposition of shares of any class, in proportion to their respective shareholdings, unless such right is denied by the articles of incorporation or an amendment thereto.	The Corporation Code of the Philippines
		V. para 2	All stockholders have pre-emptive rights, unless there is a specific denial of this right in the articles of incorporation or an amendment thereto. They shall have the right to subscribe to the capital stock of the corporation. The Articles of Incorporation may lay down the specific rights and powers of shareholders with respect to the particular shares they hold, all of which are protected by law so long as they are not in conflict with the Corporation Code.	SEC Code of Corporate Governance – V. Stockholder's Rights and Protection of Minority Shareholders' Interests
% of share capital to call an ESM	open	**SUMMARY**	The Corporation Code authorises any shareholder or group of shareholders to petition the SEC to call a special meeting of the shareholders. The petitioning shareholders are responsible for preparing and distributing the agenda for the special meeting. In general, a voting shareholder may introduce a resolution or counter proposal during the meeting under "Other Matters" provided these do not require prior board approval.	c.f. Worldbank Philippines ROSC
		Sec. 50	Sec. 50. Regular and special meetings of stockholders or members. - Regular meetings of stockholders or members shall be held annually on a date fixed in the by-laws, […] Special meetings of stockholders or members shall be held at any time deemed necessary or as provided in the by-laws: Provided, however, that at least one (1) week written notice shall be sent to all stockholders or members, unless otherwise provided in the by-laws. [....] Whenever, for any cause, there is no person authorized to call a meeting, the Secretaries and Exchange Commission, upon petition of a stockholder or member on a showing of good cause therefore, may issue an order to the petitioning stockholder or member directing him to call a meeting of the corporation by giving proper notice required by this Code or by the by-laws. The petitioning stockholder or member shall preside thereat until at least a majority of the stockholders or members present have been chosen one of their number as presiding officer.	The Corporation Code of the Philippines - Title V, By Laws; Sec. 50.
Mandatory dividend	0	**SUMMARY**	Although the Philippine Corporation Code does not explicitly provide a fixed percentage of a company's profits to be distributed as a mandatory dividend, the Corporation Code acts to prohibit companies from retaining profits in excess of their paid-in capital. SEC rules and the Code of Corporate Governance reinforce the presumption that surplus profits be distributed as dividends. The National Internal Revenue Act and its associated Revenue Regulations No. 2-01 imposes an improperly accumulated earnings tax as a penalty on closely-held investment and holding companies that accumulate income with the intention of assisting shareholders avoid the tax that they would pay if the dividends were distributed.	

		Sec. 43	"Stock corporations are prohibited from retaining surplus profits in excess of one hundred percent (100%) of their paid-in capital stock, except: (1) when justified by definite corporate expansion projects or programs approved by the board of directors; or (2) when the corporation is prohibited under any loan agreement with any financial institution or creditor, whether local or foreign, from declaring dividends without its/his consent, and such consent has not yet been secured; or (3) when it can be clearly shown that such retention is necessary under special circumstances obtaining in the corporation, such as when there is need for special reserve for probable contingencies."	The Corporation Code of the Philippines
		Provision 1	The Securities and Exchange Commission on January 28, 1993 promulgated the "Amended Rules Governing Distribution of Excess Profits of Corporation". The Rules (which apply to both listed and unlisted companies) mandated that: "All domestic stock corporations which have surplus profits in excess of necessary requirements for capital expansion and reserves shall declare and distribute the excess profits as dividends to stockholders." The Rules imposed fines and penalties on the corporation and the officers for any failure to comply with the Rules.	Amended Rules Governing Distribution of Excess Profits of Corporation
		Article V, Sec. 5	"Shareholders have the right to receive dividends subject to the discretion of the Board. However, the Commission may direct the corporation to declare dividends when its retained earnings are in excess of 100% of its paid-in capital stock, except: (a) when justified by definite corporate expansion projects or programs approved by the Board; or (b) when the corporation is prohibited under any loan agreement with any financial institution or creditor, whether local or foreign, from declaring dividends without its consent, and such consent has not been secured; or (c) when it can be clearly shown that such retention is necessary under special circumstances obtaining in the corporation, such as when there is a need for special reserve for probable contingencies".	Code of Corporate Governance
		Sec. 29	(A) *In general*. In addition to other taxes imposed by this Title, there is hereby imposed for each taxable year on the improperly accumulated taxable income of each corporation described in subsection (B) hereof, an improperly accumulated earnings tax equal to ten percent (10%) of the improperly accumulated taxable income. (B) *Tax on corporations subject to improperly accumulated earnings tax*. (1) In general. The improperly accumulated earnings tax imposed in the preceding Section shall apply to every corporation formed or availed for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any corporation, by permitting its earnings and profits to accumulate instead of being divided or distributed. (2) Exceptions. The improperly accumulated earnings tax as provided for under this Section shall not apply to: (a) Publicly-held corporations; (b) Banks and other nonbank financial intermediaries; and (c) Insurance companies.	National Internal Revenue Act 1997

			Section 2. Pursuant to Section 29 of the Code, there is imposed … a tax equal to 10% of the improperly accumulated taxable income of corporations formed or availed of for the purpose of avoiding the income tax with respect to its shareholders … . The rationale is that if the earnings and profits were distributed, the shareholders would then be liable to pay income tax thereon … . Thus, a tax is being imposed in the nature of a penalty to the corporation for the improper accumulation of its earnings, and as a form of deterrent to the avoidance of tax upon shareholders who are supposed to pay dividends tax on the earnings distributed to them by the corporation. The touchstone of the liability is the purpose behind the accumulation of the income and not the consequences of the accumulation. Thus, if the failure to pay dividends is due to some other causes, such as the use of undistributed earnings and profits for the reasonable needs of the business, such purpose would not generally make the accumulated or undistributed earnings subject to the tax. However, if there is a determination that a corporation has accumulated income beyond the reasonable needs of the business, the 10% improperly accumulated earnings tax shall be imposed. […] Section 4. Coverage. The 10% Improperly Accumulated Earnings Tax (IAET) is imposed on improperly accumulated taxable income earned starting January 1, 1998 by domestic corporations as defined under the Tax Code and which are defined as closely-held corporations. … For the purposes of these Regulations, closely-held corporations are those corporations at least fifty percent (50%) in value of the outstanding capital stock or at least fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote is owned directly or indirectly by or for not more than twenty (20) individuals. Domestic corporations not falling under the aforesaid definition are, therefore, *publicly-held corporations*.	Revenue Regulations No. 2-01

Philippines – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The law governing the Philippine suspension of payments proceedings is not integrated into a single code. The substantive provisions governing reorganisation and liquidation are found in the Insolvency Act (Act No. 1956), which was enacted by the Philippine legislature in 1909 (amended by act 3692 in 1932), when the Philippines were a territory of the United States. The provisions governing priority of claims are found in the Civil Code (Republic Act No. 386), 1949. In early 2002, a draft of a new insolvency law was proposed (Corporate Recovery Act). The bill is under consideration for approval in Congress. The draft Act provides debt relief and recovery measures to financially distressed enterprises and offers four modes of rehabilitation: pre-negotiated rehabilitation, fast-track rehabilitation, court-supervised rehabilitation, and dissolution-liquidation. Meanwhile, the Interim Rules of Procedure (A.M. No. 00-8-10-SC) developed by the Supreme Court in November 2000 to govern rehabilitation cases and the Securities Regulation Code, which transferred the quasi-judicial jurisdiction of the Securities and Exchange Commission over suspension of payments and rehabilitation proceedings to the Regional Trial Courts, remain in place.	ADB Asia Economic Monitor July 2002
Restrictions on going into reorganisation	1	**SUMMARY**	Any debtor or creditor may petition the Court to have the debtor placed under rehabilitation (Rule 4, Section 1). According to the Insolvency Law, for the court to sanction the Petition, the reorganisation plan will have to be approved in Creditors' meeting by a majority vote [meaning votes from 2/3 of all creditors and creditors representing 3/5 of the total liabilities] (Section 8, Insolvency Law). Without the majority vote, the plan is deemed rejected (Section 10), the proceedings of rehabilitation terminated, and the "parties concerned shall be at liberty to enforce the rights which may correspond to them" (Section 10). The 2000 Interim Rule of Procedure on Corporate Rehabilitation states that " the court may approve a rehabilitation plan even over the opposition of creditors holding a majority of the total liabilities of the debtor if, in its judgment, the rehabilitation of the debtor is feasible and the opposition of the creditors is manifestly unreasonable".	Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC [November 21, 2000])

		Rule 4, Sec. 1	Rule 4 REHABILITATION: Section 1. Who May Petition. - Any debtor who foresees the impossibility of meeting its debts when they respectively fall due, or any creditor or creditors holding at least twenty-five percent (25%) of the debtor's total liabilities, may petition the proper Regional Trial Court to have the debtor placed under rehabilitation.	
		Rule 4, Sec. 23	Rule 4, Sec. 23 (Approval of the Rehabilitation Plan), the court may approve a rehabilitation plan even over the opposition of creditors holding a majority of the total liabilities of the debtor if, in its judgment, the rehabilitation of the debtor is feasible and the opposition of the creditors is manifestly unreasonable. .... In approving the rehabilitation plan, the court shall issue the necessary orders or processes for its immediate and successful implementation. It may impose such terms, conditions, or restrictions as the effective implementation and monitoring thereof may reasonably require, or for the protection and preservation of the interests of the creditors should the plan fail.	
No automatic stay on assets	1	**SUMMARY**	Only if a court finds a petition to be sufficient in form and substance will it issue a Stay Order preventing enforcement of all claims (Rule 4, Sec. 6.), as exemplified by the 36 rehabilitation cases included in the working paper, An Assessment of the Application of the Interim Rules of Procedure on Corporate Rehabilitation.	Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC [November 21, 2000]) and the Working Paper, An Assessment of the Application of the Interim Rules of Procedure on the Corporate Rehabilitation
		Rule 4, Sec. 6	Sec. 6. Stay Order. - If the court finds the petition to be sufficient in form and substance, it shall, not later than five (5) days from the filing of the petition, issue an Order (a) appointing a Rehabilitation Receiver and fixing his bond; (b) staying enforcement of all claims, whether for money or otherwise and whether such enforcement is by court action or otherwise, against the debtor, its guarantors and sureties not solidarily liable with the debtor; (c) […]	
		Rule 4, Sec. 11	Sec. 11. Period of the Stay Order. - The stay order shall be effective from the date of its issuance until the dismissal of the petition or the termination of the rehabilitation proceedings. The petition shall be dismissed if no rehabilitation plan is approved by the court upon the lapse of one hundred eighty (180) days from the date of the initial hearing.	

Secured creditors first (paid)	1	**SUMMARY**	Although the methodology of La Porta, Lopez-de-Silanes, Shleifer, and Vishny, 'Law and Finance', NBER Working Paper 5661, Cambridge, Mass: National Bureau of Economics, July 1996, does not distinguish between private and public secured creditors -- such that the government can be understood as secured creditors in some jurisdictions -- under Philippine law the government is considered to be a secured creditor with respect to specific property. Given the provisions of the Civil Code and subsequent Court ruling interpretations (which have the force of law), the credits against an insolvent corporation are generally classified into three categories: (1) special preferred credits listed in Articles 2241 and 2242; (2) ordinary preferred credits listed in Article 2244; and (3) common credits under Article 2245. The special preferred credits are in turn further sub-divided into: (1-a) 'super-special' preferred credits, and (2-b) other special preferred credits. The 'super-special' preferred credits are those mentioned in Articles 2241 No. 1, and 2242 No. 1, while the other special preferred credits are those indicated in numbers 2-13 in Article 2241 and numbers 2-10 in Article 2242. The further classification may be inferred from the provisions of Articles 2243, 2247 and 2249 of the Civil Code, where the taxes, duties and fees due the State stand first in preference in respect of the particular movable or immovable property to which the tax liens have been attached. For private secured creditors, it is important to underscore that the claims listed in numbers 2-13 in Article 2241 and numbers 2-10 in Article 2242, all come after taxes, duties and fees (real estate taxes, capital gains taxes, documentary stamp taxes, transfer taxes and excise taxes on certain goods), which always have to be satisfied first. The order of precedence in payment for claims listed in numbers 2-13 in Article 2241 and numbers 2-10 in Article 2242 come in such a way that said claims enjoy their 'specially-preferred' character as liens, but they are paid only to the extent that the aforesaid taxes have already been paid out of the proceeds of the specific properties involved. Articles 2241 and 2242 jointly with Articles 2246 to 2249 of the Civil Code establish a two-tier order of preference. The first tier includes only taxes, duties and fees due on specific movable or immovable property. All other special preferred credits stand on the same second tier to be satisfied, pari passu and pro rata, out of any residual value of the specific movable or immovable property to which such other credits relate (Republic vs. Peralta (150 SCRA 37, May 20, 1987). As such, 'special preferred credits' under Articles 2241 and 2242 refer to credit claims that constitute liens or encumbrances on the specific movable or immovable property to which they relate. Therefore, a 'secured creditor' under the Philippine law may refer to either a (1) legal-lien holder or a (2) contractual lien-holder. The former includes the government as creditor for the duties, taxes and fees due the State on specific personal or real property, and the latter includes mortgages or pledges that are duly registered and recorded in the proper Registry Office. Yet, the government under the current provisions has no pre-insolvency entitlement to the specific assets to which it claims priority by virtue of the bankruptcy; its security does not exist prior to bankruptcy.	

			It must be noted that among the ordinary preferred credits listed in Article 2244, there are taxes and assessments due the national government, or any province, city or municipality (paragraphs 9, 10, and 11) that do not constitute liens or encumbrances on the specific movable or immovable property to which they relate. Examples of these are income and business taxes of both corporations and individuals. In addition, the Labor Code of the Philippines (P.D. No. 422, as amended) establishes that unpaid wages and other monetary claims of workers enjoy preference over taxes due to the government. However, while the Philippine Supreme Court has been ambivalent about the matter in the past, the issue is now settled insofar the prevailing rule is that Article 110 is only a preference in payment for unsecured property that does not alter the preferential lien of secured creditors. In the case of Batong Buhay Gold Mines v. Dela Serna et al. (312 SCRA 22 [1999]), the Supreme Court ruled that Article 110 of the Labor Code does not disregard the preferential lien of mortgages considered as preferred credits under the provisions of the Civil Code of the Philippines. With regard to the money claims of workers against a corporation undergoing bankruptcy proceedings, the Supreme Court has now ruled that such claims merely enjoy ordinary preference and, unlike a lien, a preference of credit does not create in favour of the preferred creditor a charge or proprietary interest upon any particular property of the debtor. Hence, such claims are only considered as ordinary preferred credits. Significantly, the decisions of the Supreme Court are part of Philippine laws by virtue of Article 8 of the Civil Code, which provides that judicial decisions applying or interpreting the laws or the Constitution form part of the legal system of the Philippines.	
		Art. 110	Worker preference in case of bankruptcy. In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards their wages and other monetary claims, any provisions of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before claims of the government and other creditors may be paid. (As amended by Section 1, Republic Act No. 6715, March 21, 1989)	The Labor Code of the Philippines, P.D. No. 442, as amended, Book III Department of Labor and Employment, Republic of the Philippines www.dole.gov.ph/laborcode/

		Art. 2241	With reference to specific movable property of the debtor, the following claims or liens shall be preferred: (1) Duties, taxes and fees due thereon to the State or any subdivision thereof; (2) Claims arising from misappropriation, breach of trust, or malfeasance by public officials committed in the performance of their duties, on the movables, money or securities obtained by them; (3) Claims for the unpaid price of movables sold, on said movables, so long as they are in the possession of the debtor, up to the value of the same; and if the movable has been resold by the debtor and the price is still unpaid, the lien may be enforced on the price; this right is not lost by the immobilization of the thing by destination, provided it has not lost its form, substance and identity; neither is the right lost by the sale of the thing together with other property for a lump sum, when the price thereof can be determined proportionally; (4) Credits guaranteed with a pledge so long as the things pledged are in the hands of the creditor, or those guaranteed by a chattel mortgage, upon the things pledged or mortgaged, up to the value thereof; (5) Credits for the making, repair, safekeeping or preservation of personal property, on the movable thus made, repaired, kept or possessed; […]	Civil Code, Book IV, Title XIX, Chapter 2. - Classification of Credits
		Art. 2242	With reference to specific immovable property and real rights of the debtor, the following claims, mortgages and liens shall be preferred, and shall constitute an encumbrance on the immovable or real right: (1) Taxes due upon the land or building; (2) For the unpaid price of real property sold, upon the immovable sold; (3) Claims of laborers, masons, mechanics and other workmen, as well as of architects, engineers and contractors, engaged in the construction, reconstruction or repair of buildings, canals or other works, upon said buildings, canals or other works; (4) Claims of furnishers of materials used in the construction, reconstruction, or repair of buildings, canals or other works, upon said buildings, canals or other works; (5) Mortgage credits recorded in the Registry of Property, upon the real estate mortgaged; (6) Expenses for the preservation or improvement of real property when the law authorizes reimbursement, upon the immovable preserved or improved; […]	Civil Code, Book IV, Title XIX, Chapter 2. - Classification of Credits
		Art. 2243	The claims or credits enumerated in the two preceding articles shall be considered as mortgages or pledges of real or personal property, or liens within the purview of legal provisions governing insolvency. Taxes mentioned in No. 1, Article 2241, and No. 1, Article 2242, shall first be satisfied.	Civil Code, Book IV, Title XIX, Chapter 2. - Classification of Credits

		Art. 2244	Art. 2244. With reference to other property, real and personal, of the debtor, the following claims or credits shall be preferred in the order named: (…) (9) Taxes and assessments due the national government, other than those mentioned in Articles 2241, No. 1, and 2242, No. 1; (10) Taxes and assessments due any province, other than those referred to in Articles 2241, No. 1, and 2242, No. 1; (11) Taxes and assessments due any city or municipality, other than those indicated in Articles 2241, No. 1, and 2242, No. 1; (…)	Civil Code, Book IV, Title XIX, Chapter 3. – Order of Preference of Credits
		Art. 2246	Those credits which enjoy preference with respect to specific movables, exclude all others to the extent of the value of the personal property to which the preference refers.	Civil Code, Book IV, Title XIX, Chapter 3. – Order of Preference of Credits
		Art. 2247	If there are two or more credits with respect to the same specific movable property, they shall be satisfied pro rata, after the payment of duties, taxes and fees due the State or any subdivision thereof.	Civil Code, Book IV, Title XIX, Chapter 3. – Order of Preference of Credits
		Art. 2248	Those credits which enjoy preference in relation to specific real property or real rights, exclude all others to the extent of the value of the immovable or real right to which the preference refers.	Civil Code, Book IV, Title XIX, Chapter 3. – Order of Preference of Credits
		Art. 2249	If there are two or more credits with respect to the same specific real property or real rights, they shall be satisfied pro rata, after the payment of duties, taxes and fees due the State or any subdivision thereof.	Civil Code, Book IV, Title XIX, Chapter 3. – Order of Preference of Credits
Management replaced	1	**SUMMARY**	The Interim Rules state that the Rehabilitation Receiver shall not take over the management and control of the debtor. However, the Interim Rules of Procedure Governing Intra-Corporate Controversies state that a party (including the Rehabilitation Receiver) may apply for the appointment of a management committee, and if the court finds the application sufficient in form and substance, the court shall issue an order appointing a management committee. Upon assumption to office of the management committee, the receiver shall immediately render a report and turn over the management and control of the entity under his receivership to the management committee. The management committee takes the place of the management and board of directors of the entity under management, assumes their rights and responsibilities and preserves their entity's assets and properties in its possession.	
		Rule 4, Sec. 14	The Rehabilitation Receiver shall not take over the management and control of the debtor but shall closely oversee and monitor the operations of the debtor during the pendency of the proceedings, and for this purpose shall have the powers, duties and functions of a receiver under Presidential Decree No. 902-A, as amended, and the Rules of Court. The Rehabilitation Receiver…shall have the following powers and functions:… (x) To recommend the appointment of a management committee in the cases provided for under Presidential Decree No. 902.A, as amended.	Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC [November 21, 2000])

		Rule 9, Sec. 1	Creation of a management committee.- As an incident to any of the cases filed under these Rules of the Interim Rules on Corporate Rehabilitation, a party may apply for the appointment of a management committee for the corporation, partnership or association, when there is imminent danger of: Dissipation, loss, wastage or destruction of assets or properties; and Paralyzation of its business operations which may be prejudicial to the interest of the minority stockholders, parties-litigants or the general public.	Interim Rules of Procedure Governing Intra-Corporate Controversies Under R.A. No. 8799 [Effective April 1, 2001]
		Rule 9, Sec. 2	In the event the court finds the application to be sufficient in form and substance, the court shall issue an order […] (d) prohibiting the incumbent management of the company, partnership or association from selling, encumbering, transferring or disposing in any manner any of its properties except in the ordinary course of business.	Interim Rules of Procedure Governing Intra-Corporate Controversies Under R.A. No. 8799 [Effective April 1, 2001]
		Rule 9, Sec. 4	Composition of the management committee,- After due notice and hearing, the court may appoint a management committee composed of three (3) members chosen by the court.	Interim Rules of Procedure Governing Intra-Corporate Controversies Under R.A. No. 8799 [Effective April 1, 2001]
		Rule 9, Sec. 5	Power and functions of the management committee.- Upon assumption to office of the management committee, the receiver shall immediately render a report and turn over the management and control of the entity under his receivership to the management committee. The management committee shall have the power to take custody of and control all assets and properties owned or possessed by the entity under management. It shall take the place of the management and board of directors of the entity under management, assume their rights and responsibilities and preserve their entity's assets and properties in its possession.	Interim Rules of Procedure Governing Intra-Corporate Controversies Under R.A. No. 8799 [Effective April 1, 2001]
Legal reserve	0	**SUMMARY**	There is no specific provision for a legal reserve.	

Poland – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The Commercial Companies Code of September 15, 2000 (Journal of Laws no 94/1037 which entered into force on January 1, 2001) regulates partnerships (registered partnership, limited partnership, professional partnership and limited joint-stock partnership), and corporations (joint-stock company and limited liability company). The Code and its later amendments aim to modernise legal norms and align Polish standards to models prevailing in the EU. The protection of minor shareholders is covered in Chapter 4 of the Act on public offering, conditions governing the introduction of financial instruments to organised trading, and public companies, dated July 29th, 2005 (Journal of Laws of 2005, No. 184 item 1539).	
One share-one vote	1	**SUMMARY**	Ordinary shares, both in private and public limited liability companies carry one vote per share. Special types of shares are allowed under specific conditions. In addition, the articles of incorporation of a S.A. may limit the voting rights of a shareholder who holds more than one fifth of all the votes in the company.	
		Article 411	1) A share shall carry one vote at the general meeting. The company articles may limit the voting right of a shareholder, holding more than one-fifth of the total number of votes in the company, subject to provisions of Art 351 no 2, 353 no 3 and Art 354.	COMMERCIAL CODE
Proxy by mail allowed	0	**SUMMARY**	Proxy by mail is not specifically allowed.	
		Article 412	1) The shareholders may participate in the general assembly and exercise their voting right in person or by proxy. 2) The proxy shall be granted in writing, or else it shall be invalid.	COMMERCIAL CODE
Shares not blocked before meeting	1	**SUMMARY**	Bearer shares in a S.A. (or deposit certificates in respect to shares in a publicly listed S.A.) have to be deposited with the company, a notary public, a bank or a brokerage firm at least one week before the date of a given shareholder meeting. They may be retrieved after the meeting. There is no similar requirement with respect to registered shares in a S.A.; however, their holders should be registered in the company's share book at least a week before the Meeting in order to be allowed to vote.	

		Article 406	1) Those entitled under registered shares and temporary, as well as the pledgees and usufructuaries who have the right to vote, may participate in the general assembly if they were registered in the share register at least one week prior to the holding of the general assembly. 2) Bearer shares shall carry the right of participating in general meetings provided the share title deeds have been deposited with the company no later than one week before the date of general meeting and are not withdrawn before the conclusion thereof.	COMMERCIAL CODE
Cumulative voting / proportional representation	1	**SUMMARY**	Cumulative voting to protect minority shareholders is provided for, as cited below.	
		Article 385	1) The Supervisory Board shall comprise at least three, and in public(ly traded) companies at least five, members appointed and dismissed by the general assembly. 2) The statutes may provide for a different procedure for appointing and dismissing members of the supervisory board. 3) Upon an application of the shareholders, representing at least one- fifth of the share capital, the election of the supervisory board shall be made by the next general assembly by way of a vote in separate groups, even if the statutes provide for a procedure for appointing the supervisory board. […] 5) The persons representing at the general assembly the portion of shares which represents the results of the division of the total number of the represented shares by the number of members of the board, may create a separate group for the purpose of electing one member of the board, and shall not participate in the election of the remaining members.	COMMERCIAL CODE
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	The institution of obligatory share repurchase applies to a S.A. in relation to resolutions of the Shareholders Meeting concerning a substantial change to the scope of the company's business, which is effective only if the shares of the shareholders objecting to the change are purchased. During a general meeting of a public company, shareholders controlling 5% or more of the shares can call for an expert (or special auditor) to examine the management of its business. If this is refused, they can go to court to force the examination.	
		Article 416	1) A majority of two-thirds of the votes shall be required for the adoption of a resolution on a major change of the objects of the company. […] 4) The effect of the resolution shall be contingent upon buying out shares of those shareholders who objected to the amendment. The shareholders present at the general meeting who voted against the resolution shall, within two days from the general meeting day, deposit with the company, their shares or certificates attesting that the shares have been placed at the disposal of the company, and those who were absent shall do so within one month from the date of publishing the resolution: failing this, these shareholders shall be deemed to agree to the amendment.	COMMERCIAL CODE

		Article 84	1. At the request of a shareholder or shareholders in a public company holding at least 5% of the total vote, a general shareholders meeting may resolve to mandate an expert to review, at the company's expense, a specific issue related to the company's incorporation or the conduct of its business (special-purpose auditor). To this end, the shareholder(s) may request that an extraordinary general shareholders meeting be convened or the adoption of such a resolution be placed on the agenda of the next general shareholders meeting. The provisions of Art. 400 through Art. 401 of the Commercial Companies Code of September 15th 2000 shall apply accordingly. 2. Subject to Art. 84.3, the entity appointed as the special-purpose auditor shall have sufficient professional knowledge and experience to review the issue defined in the resolution of the general shareholders meeting and to prepare a reliable and impartial report on the review. 3. The entity appointed as the special-purpose auditor shall not be an entity which in the period of the review referred to in Art. 84.1, rendered services to the public company referred to in Art. 84.1 or its parent entity or subsidiary, or its parent undertaking or major investor, as defined in the Accountancy Act of September 29th 1994. Moreover, the entity appointed as the special-purpose auditor shall not be a member of a group which includes the entity which rendered the aforementioned services.	Act on public offering, conditions governing the introduction of financial instruments to organised trading, and public companies
		Article 85	1. If the general shareholders meeting does not adopt a resolution in accordance with the request referred to in Art. 84.1, or adopts such a resolution in breach of Art. 84.4, the requesting shareholder(s) may, within 14 days from the resolution date, move to the registry court for appointment of the designated entity as the special-purpose auditor. The provisions of Art. 312 of the Commercial Companies Code of September 15th 2000 shall apply accordingly.	
Preemptive right to new issues	1	**SUMMARY**	There are three ways the share capital of the company can be increased: private subscription; closed subscription; and open subscription. Shareholders have pre-emptive rights in the case of closed subscription. This right may be excluded only by a resolution of the Shareholders Meeting, subject to special statutory requirements.	
		Article 431	1) An increase of the share capital shall require an amendment to the statutes and shall be effected by way of an issue of new shares or an increase in the nominal value of existing shares. 2) The new shares shall be taken up by way of: 1) the making of an offer by the company and its acceptance by a specified offeree; the acceptance of the offer shall be expressed in writing, or else it shall be invalid (private subscription). 2) the offering of the shares solely to the shareholders who have the pre-emptive right (closed subscription). 3) the offering of the shares in an announcement in accordance with Art 440 paragraph 1, addressed to the persons who do not have the pre-emptive right (open subscription).	COMMERCIAL CODE
		Article 433	[Pre-emptive rights] 1) The shareholders shall have the right of priority in taking up the new shares in proportion to the number of shares they hold (the pre-emptive right).	

% of share capital to call an ESM	10%	**SUMMARY**	The shareholders in either form of company controlling jointly at least ten percent of the share capital may call an ESM. However, the articles of incorporation may grant this right to shareholders holding a smaller fraction of the share capital.	
		Article 400	1) The shareholder or shareholders representing at least one-tenth of the share capital may request that the extraordinary general assembly be convened, as well as that certain matters be placed on the agenda of the next general assembly. Such request shall be submitted to the management board in writing not later than one month prior to the proposed date of the general assembly. 2) The statutes may grant the rights referred to in 1) to shareholders representing less than one-tenth of the share capital.	COMMERCIAL CODE
Mandatory dividend	NA	**SUMMARY**	A shareholder has the right to dividend payments in proportion to the nominal value of its shares depending on the profit of the company.	
		Article 347	1) The shareholders shall be entitled to participate in the profits shown in the financial report, audited by an auditor, which have been designated by the general assembly for distribution to shareholders. 2) The profits shall be divided in proportion to the number of shares. If the shares are not paid for in full, the profits shall be divided in proportion to the effected payment for the shares.	COMMERCIAL CODE
		Article 348	1) The amounts to be divided amongst the shareholders may not exceed the profits for the previous financial year, increased by the profits transferred from the reserve capitals (funds) created for that purpose in previous years, and reduced by the losses sustained and the amounts allocated to reserve capitals created in accordance with the law or the statutes which may not be used for dividend payments. The profits from the reserve capitals created during a period not longer than the three previous financial years may be designated for dividends.	

Poland – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The Law on Bankruptcy and Reorganisation of February 28, 2003 (JoL no 60/535) came into force on October 1, 2003 replacing the existing Ordinances. The new Act regulates principally all the issues of bankruptcy, including special procedures concerning the insolvency of banks, insurance companies and bond issuers. The Act provides for two separate types of proceedings related to insolvency of business entities. The bulk of the legislative provisions constitute norms for bankruptcy proceedings conducted against an insolvent business entity. This regulation is supplemented with the regulations on reorganisation proceedings initiated by financially troubled business entities and aimed at avoiding insolvency. The reorganisation proceedings are commenced after the business entity files with the court a relevant declaration accompanied by a reorganisation plan. Then, the business entity announces this in the Monitor Sądowy i Gospodarczy - Official Gazette. The date of placing the announcement is the date on which the reorganisation proceedings are commenced.	
Restrictions on going into reorganisation	0	**SUMMARY**	There is no mention in the law about creditors' consent for going into reorganisation	BANKRUPTCY LAW
No automatic stay on assets	0	**SUMMARY**	As of the date reorganisation proceedings are commenced, repayment of the business entity's liabilities is suspended.	
		Article 498	Starting with the day of commencing the reorganisation proceedings: 1) they payment of the obligations of the entrepreneur are suspended; 2) the accrual of interest owed by the entrepreneur is suspended; 3) the deduction of receivables is permissible in observation of the provisions of Article 89 (Art. 89/2 Such deduction is permitted if the receivables result from the repayments of a debt for which the recipient was responsible personally, or through certain assets, was assumed before the filing of the bankruptcy petition.	BANKRUPTCY LAW

Secured creditors first (paid)	0	**SUMMARY**	The law provides for satisfaction of creditors. The Bankruptcy and Reorganisation Law grants certain creditors procedural preferences, specifically by not requiring them to formally register as creditors. It requires the judge-commissar in charge of administering the insolvency proceedings to divide the creditors into different categories (Art. 278) and stipulates that all creditors in each category should receive identical terms, although minor creditors and those lending money after the declaration of insolvency for necessary expenses may receive preferential treatment. Similarly, employees are entitled to minimal compensation (Art. 279). While the claims of creditors are settled by means of an agreement of creditors, the agreement does not affect rights arising from any mortgage, security, registration pledge, treasury pledge, or maritime mortgage placed on the estate of the insolvent entrepreneur (Art. 292(1)). These are satisfied from the sale of the relevant assets (Art. 345). The Bankruptcy and Reorganisation Law stipulates the order of satisfying creditors.	
		Article 473	The amounts necessary to satisfy or secure the creditors known to the company who have not reported or whose receivables are not mature or are disputed, shall be deposited with the court.	COMMERCIAL CODE
		Article 342	1) The payable and liabilities subject to satisfaction from the funds of the estate in bankruptcy are divided up into the following categories: (i) the first category – the costs of the insolvency proceedings, liabilities connected with pension, invalidity, and sickness insurance premia of the employees, liabilities connected with work, liabilities of farmers in connection with agreements to deliver products from the estate made over the past two years, pension payments for sickness, inability to work, disability or death, alimony obligations bearing on the insolvent entrepreneur, liabilities created by the receivers (during the insolvency proceedings), liabilities arising from agreements concluded by the insolvent entrepreneur prior to the declaration of insolvency, the satisfaction of which is demanded by the receivers, liabilities arising from an increase in the estate of the liabilities as a result of actions of the insolvent entrepreneurs conducted with the approval of the court supervisor;	
		Article 342	(ii) the second category – taxes, other public fees, and liabilities connected with social insurance schemes, not satisfied under the first category, and incurred during the year preceding the date of declaring bankruptcy, as well as the interest and the costs of execution emanating from them; (iii) the third category – other payables, unless subject to satisfaction under the fourth category, together with the interest, during the year preceding the declaration of bankruptcy, of contractual compensation, the costs of the court case and execution; (iv) the fourth category – interest payments not associated with the aforementioned categories in the order in which capital is subject to satisfaction, as well as court and administrative fines and liabilities in connection with donations and records.	

			2) A liability incurred by means of a transfer or endorsement following the declaration of bankruptcy, is subject to satisfaction in the third category, unless it is [deemed to be] subject to satisfaction in the fourth category. This does not apply to a liability which has arisen as result of the actions of the court receivers or the actions of the insolvent entrepreneurs undertaken with the approval of the court supervisor. 3) Provisions pertaining to the satisfaction of liabilities arising from work are duly referred to the claims of the Fund of Guaranteed Work Benefits (Fundusz Gwarantowanych Świadczeń Pracowniczych) for the return from the bankrupt estate of benefits paid out by the Fund to the employees of the bankrupt entrepreneur. […]	BANKRUPTCY LAW
		Article 344	If the sum available for distribution does not suffice to satisfy all existing liabilities in their entirety, the liabilities of a further category are satisfied only after the satisfaction of all the liabilities of a preceding category in their entirety. If the assets do not suffice for satisfaction in their entirely of the liabilities of a category, the liabilities are satisfied in proportion to their size.	
		Article 345	1) If the particular provisions do not dictate otherwise, liabilities secured by any mortgage, collateral, registration pledge, treasury pledge, or a maritime mortgage and expiring according to the law code or the individual rights and claims bearing on the real property are subject to satisfaction from the sum obtained from the sale of the relevant object with a deduction made for the costs of the sale. […]	
Management replaced	0	**SUMMARY**	The management of a company is not replaced when insolvency or reorganisation proceedings are initiated. In the instance of reorganisation, the entrepreneur is responsible for developing the restructuring plan. In connection with the declaration of insolvency, the contractual rights and obligations of the entrepreneur are limited and the court appoints a receiver and a supervisor.	
		Article 494(2)	In connection with the declaration of the commencement of reorganisation proceedings, the entrepreneur compiles a reorganisation plan, the documents listed in Art. 23(1), as well as a notarised declaration on the accuracy of the information provided…	BANKRUPTCY LAW
		After 497	1) After commencing the reorganisation proceedings and for their duration, the court appoints a court supervisor for the entrepreneur and can appoint an expert as specified in Art. 31.[…] 3) The entrepreneur concludes without delay an agreement with the court supervisor on supervisory activities and subsequently pays him remuneration equalling twice the average monthly compensation in the sector, excluding profit bonuses, in the last quarter of the preceding year, as declared by the president of the Main Statistical Office.	
Legal reserve	33%	**SUMMARY**	Until at least one third of the share capital is reached, eight percent of annual net profits should be transferred into reserves.	

		Article 396(1)	A supplementary capital shall be created so that losses can be financed; at least 8% of the profits for a given financial year shall be transferred to the supplementary capital until such capital reaches at least one-third of the share capital.	COMMERCIAL CODE

Russia – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The main pieces of legislation pertaining to shareholder rights in Russia are: • Federal Law on Joint-Stock Societies of December 26, 1995 (No 208-F3). This was amended in 1996, 1999, 2001, 2002 and 2003; • Federal Law on the Securities Market of April 22, 1996 (No 39-F3), and • Federal Law on the Defence of the Rights and Legal Interests of Investors on the Securities Market of March 5, 1999 (No 46-F3) The Federal Law on Joint-Stock Societies of December 26, 1995 (No 208-F3), as amended five times since then, is the main legal document pertaining to shareholders' rights in Russia. In February 2004, Federal Law No. 5-FZ amending the Federal Law on Joint-Stock Companies was enacted. This legislation sought to enhance the protection of minority stockholders rights by, for example, specifying the use of cumulative voting in the election of members of the board of directors and stipulating that there be at least five board members, which together ensure that minority shareholders have the opportunity to obtain at least one seat on the board. Several types of companies are allowed under Russian law, the most important categories being "limited responsibility societies" and "joint-stock societies". This analysis focuses on joint-stock societies since shares of this type of company can be traded.	
One share-one vote	1	**SUMMARY**	The law provides for one share one vote	
		Article 59	Voting at General Meeting of Stockholders Voting at a general meeting of stockholders shall be effectuated according to the principle of 'one voting stock of the society -- one vote', except for conducting cumulative voting on the election of the members of the board of directors (supervisory board) of the society and other instances defined in the federal law.	Federal Law on Joint-Stock Societies
Proxy by mail allowed	0	**SUMMARY**	The law provides for "external voting" on decisions that do not involve the election of the council of directors (or supervisory council) of the society, audit commission (or internal auditor) of the society or confirmation of the auditor of the society.	

		Article 50	1) A decision of a general meeting of stockholders may be adopted without holding a meeting (the joint presence of stockholders to discuss questions on the agenda and to adopt decisions about put to a vote) by means of conducting external voting (by means of polling). N.B. This provision does not obviate the need for an annual general meeting as defined under Article 47(1) of the law. 2) A decision by the general meeting of stockholders taken by means of external voting (polling) is considered to be in force if the number of stockholders involved in voting control no less than one-half of the voting shares of the society. 3) External voting is conducted by using voting bulletins meeting the requirements stipulated in Article 60 of the law. The date of providing stockholders with their bulletins must be determined no later than 30 days prior to the deadline for receiving the bulletins by the society.	Federal Law on Joint-Stock Societies
Shares not blocked before meeting	1	**SUMMARY**	The law does not permit companies to require their shareholders to deposit their shares prior to a General Shareholders Meeting.	Federal Law on Joint-Stock Societies
Cumulative voting / proportional representation	1	**SUMMARY**	Cumulative voting is provided for by the law.	
		Article 66 (4)	Elections of members of the council of directors (supervisory council) of a society with a number of stockholders/possessors of voting stocks of the society of more than one thousand shall be effectuated by cumulative voting. In a society with a number of stockholders/possessors of common stocks of the stock of less than 1,000, cumulative voting in the event of elections of members of the council of directors (or supervisory council) of the society may be provided for by the charter. In the event of cumulative voting, the number of votes associated with each voting share shall correspond to the number of members of the council of directors (or supervisory council) of the society. A stockholder shall have the right to cast the votes so received entirely for one candidate or to distribute them among several candidates.	Federal Law on Joint-Stock Societies
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Shareholders have the right to require the company to buy back their shares in the case of reorganisation or a large-scale transaction.	
		Article 75 (1)	Stockholders possessing voting stocks shall have the right to demand the purchase by the society of all or part of the stocks belonging to them in instances of: (a) the reorganization of the society or the conclusion of a large-scale transaction, the decision concerning the approval of which is adopted by the general meeting of stockholders in accordance with Article 89(2) of the present Federal Law if they voted against the adoption of the decision concerning its reorganization or the approval of the said transaction or did not take part in the voting with regard to these questions; (b) the adoption of changes of amendments to the charter of the society or the adoption of a new edition of the charter which limits their rights if they voted against the relevant decision or did not participate in the vote.	Federal Law on Joint-Stock Societies

Preemptive right to new issues	1	**SUMMARY**	The law provides for preferential rights. However, it is not specified if this right grants purchasing an amount of stocks that maintains the proportional ownership in the society. It also does not specify if all shareholders have this right.	
		Article 28	3) […] The decision to increase the share capital of a society through the issue of additional shares must determine the quantity of additional common stocks and of preferred stocks of each type to be placed within the limits of the quantity of declared stocks of this category (or type), the dates and terms of placement, including the price of placement of additional stocks to be offered to stockholders with a preferential right to obtain such shares as defined under the federal law. 4) An increase in the charter capital of a society by means of the issue of additional stocks when there is a block of stocks granting more than 25% of the votes at the general meeting and consolidated in accordance with legal acts of the Russian Federation on privatisation in state or municipal ownership may be effectuated within the period of consolidation only if under such increase the amount of participatory of the state or municipal formation is preserved.	Federal Law on Joint-Stock Societies
% of share capital to call an ESM	10%	**SUMMARY**	Shareholders representing ten percent of the share capital may call an ESM.	
		Article 55 (1)	An extraordinary general meeting of stockholders shall be held by decision of the council of directors (supervisory council) of the society on the basis of its own initiative, the demand of the audit commission (or internal auditor) of the society, the auditor of the society, and also a stockholder(s) who is the possessor of not less than 10% of the voting stocks of the society on the date of submitting the demand.	Federal Law on Joint-Stock Societies
Mandatory dividend	0	**SUMMARY**	The law does not provide for a mandatory dividend. The general meeting decides upon dividend payments.	
		Article 42 (3)	The decision on the payment of intermediate (quarterly, semi-annual) dividends, on the amount of such dividends, and on the manner of their payment to shares of particular categories (types) is taken by the board of directors (supervisory council) of the society. The decision concerning the payment of dividends, including the decision concerning the amount of dividends and the form of its payment with regard to the stocks of each category (or type), shall be adopted by the general meeting of stockholders on the recommendation of the board of directors (supervisory council) of the society. The amount of the annual dividend may not be larger than recommended by the council of directors (or supervisory council) of the society nor less than the payment of intermediate dividends. The general meeting of stockholders has the right to take a decision on the non-payment of dividends to shares of particular categories (types), as well as on the payment of dividends in less than the full amount to preferred shares, the amount of dividends to which is stipulated in the society charter.	Federal Law on Joint-Stock Societies

Russia – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The Federal Law on Insolvency (or Bankruptcy) as of 26 October 2002 (No 127-F3) regulates creditors' rights in Russia. An important element of the Insolvency Law is the "arbitrage court", which decides upon insolvency, financial recuperation, and liquidation.	
Restrictions on going into reorganisation	1	**SUMMARY**	In the event of insolvency, the law provides for the right of creditors to participate in the decision to start a liquidation process. Financial recuperation can be agreed upon in order to stop the liquidation process	
		Article 80 (1)	Financial recuperation shall be introduced by an arbitrage court on the basis of the decision of a meeting of creditors [...]	Federal Law on Insolvency
No automatic stay on assets	0	**SUMMARY**	As soon as financial recuperation becomes effective, creditors can no longer access their collateral. Payments to creditors will be considered by the arbitrage court while financial recuperation is under way.	
		Article 81	1) From the date of rendering by the arbitrage court of a ruling concerning the introduction of financial recuperation the following consequences shall ensue: [...] measures previously taken with regard to securing the demands of creditors shall be abolished, 5) Demands of creditors shall be considered by an arbitrage court in the procedure provided for by Article 71 of the present Federal Law.	Federal Law on Insolvency
Secured creditors first (paid)	0	**SUMMARY**	The law provides for payment of labour and compensation claims before creditors receive payments. The liquidation preference is specified in the register of demands.	

		134 (4)	Demands of creditors shall be satisfied in the following priority: • in first priority settlements shall be made with regard to the demands of citizens to whom the debtor bears responsibility for the causing of harm to life or health by means of the capitalization of respective time payments, and also contributory compensation of moral harm; • in second priority settlements shall be made with regard to the payment of severance benefits and payment for labour of persons working or who worked under a labour contract and with regard to the payment of remuneration under authors' contracts; • in third priority settlements shall be made with other creditors. Demands of creditors with regard to obligations secured by the pledge of property of the debtor shall be satisfied at the expense of the value of the subject of pledge preferentially before other creditors, except for obligations to creditors of the first and second priorities, the rights of demand with regard to which arose before the conclusion of the respective contract of pledge.	Federal Law on Insolvency
Management replaced	0	**SUMMARY**	The law does not provide for automatic replacement of management in case of financial recuperation.	
		Article 82 (1)	In the course of financial recuperation the management organs of the debtor shall effectuate their powers with the limitations established by the present Chapter.	Federal Law on Insolvency
Legal reserve	5%	**SUMMARY**	The legal minimum reserve is five percent of the charter capital.	
		Article 35 (1)	A reserve fund in the amount provided for by the charter of the society, but not less than 5% of its charter capital, shall be created in the society.	Federal Law on Joint Stock Societies

South Africa – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		South Africa is a common law country. The version of the Companies Act No. 61 of 1973 used was that given at http://www.acts.co.za/ Since 2001 the following amendments were made to this Act: • Companies Amendment Act 35 of 2001 as published in GG No. 22885 dated December 03, 2001 • Judicial Matters Amendment Act 55 of 2002 as published in GG No. 24277 dated January 17, 2003 • Insolvency Second Amendment Act 69 of 2002 as published in GG No. 24285 dated January 22, 2003 • Corporate Laws Amendment Act 39 of 2002 as published in GG No. 24280 dated January 22, 2003 • Judicial Matters Amendment Act 16 of 2003, as published in GG No. 25196 dated July 10, 2003 • [with effect from 9 July 2004] • Prevention and Combating of Corrupt Activities Act 12 of 2004, as published in GG No. 26311 dated April 28, 2004 • Companies Amendment Act 20 of 2004, as published in GG No. 26908 dated October 20, 2004; • Securities Services Act 36 of 2004, as published in GG No. 27190 dated January 24, 2005; Previously, shareholder rights were also protected by The Financial Intelligence Centre Act (Act No. 39 of 2001), which aims to combat money laundering by imposing duties on listed organisations, including banks and mutual banks, thereby providing a check on companies' activities and consequently offering a form of protection to shareholders.	
			Similarly, the South Africa electronic share transfer system (STRATE) offers shareholder protection especially regard to the security of share ownership. Now that the ownership of a share is an accounting record as opposed to a document being sent to and fro between broker, nominee, and client, there is less risk of fraud or theft in relation to the shares.	
One share-one vote	0	**SUMMARY**	There are several places in the law where the text mentions shares having different voting rights. Two are given below.	

		Section 141	No offer of shares for sale to public without statement (1) No person shall either orally or in writing (including any newspaper advertisement or any advertisement in a format) make an offer of shares for sale to the public or issue, distribute or publish any such material which in its form and context is calculated to be understood as an offer as aforesaid unless it is accompanied by a written statement containing the particulars required by this section to be included therein. [...] (5) The said written statement shall contain particulars with respect to the following matters: [...] (c) the share capital of the company and the number of shares which have been issued, the classes into which it is divided and the rights of each class of shareholders in respect of capital, dividends and voting and the number and amount of shares issued for cash and the number and amount thereof issued for a consideration other than cash, and the dates on which and the prices at which or the consideration for which such shares were issued; […]	Companies Act No. 61 of 1973
		Section 193	Voting rights of shareholders (1) Subject to the provisions of sections 194 and 195 and to the exceptions stated in section 196, every member of a company having a share capital shall have a right to vote at meetings of that company in respect of each share held by him. (2) Every member of a company limited by guarantee shall, unless the articles otherwise provide, have the right to vote at meetings of that company and shall have one vote.	Companies Act No. 61 of 1973
Proxy by mail allowed	1	**SUMMARY**	Section 189 states that the proxy form must allow the shareholder to indicate his voting wishes. Section 51 of Schedule 1 states that proxy forms must be lodged with the company forty-eight hours before the meeting. This lodging can be by mail. New legislation was passed recently, the Electronic Communications and Transactions Act ("the ECT Act") which mentions electronic voting by proxy, but it is unclear whether the Companies Act has to be amended to allow this.	
		Section 189	Representation of members at meetings by proxies (1) Any member of a company entitled to attend and vote at a meeting of the company, or where the articles of a company limited by guarantee so provide, any member of such company, shall be entitled to appoint another person (whether a member or not) as his proxy to attend, speak, and vote in his stead at any meeting of the company: Provided that, unless the articles otherwise provide, a proxy shall not be entitled to vote except on a poll and a member of a private company shall not be entitled to vote except on a poll and a member of a private company shall not be entitled to appoint more than one proxy. [...] (5) If for the purposes of any meeting of a company invitations to appoint as proxy a person, or one of a number of persons, specified in the invitations or the instruments appointing a proxy, are issued at the company's expense, any such invitation or instrument appointing a proxy shall (a) contain adequate blank space immediately preceding the name or names of the person or persons specified therein to enable a member to write in the name and, if so desired, an alternative name of a proxy of his own choice; (b) provide for the member to indicate whether his proxy is to vote in favour of or against any resolution or resolutions to be put at the meeting or is to abstain from voting. […]	Companies Act No. 61 of 1973

		Schedule 1, Section 51	The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default of complying herewith the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of six months from the date when it was signed, unless so specifically stated in the proxy itself, and no proxy shall be used at an adjourned meeting which could not have been used at the original meeting.	Companies Act No. 61 of 1973
Shares not blocked before meeting	1	**SUMMARY**	There is no reference to this in the laws.	
Cumulative voting / proportional representation	0	**SUMMARY**	The law does not allow for cumulative voting or proportional representation. Each candidate for director must be voted on individually and a simple majority vote will appoint a candidate.	
		Section 210	Appointment of directors to be voted on individually (1) At a general meeting of a company a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be moved, unless a resolution that it shall be so moved has first been agreed to by the meeting without any vote being given against it. […]	Companies Act No. 61 of 1973
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Section 252 allows the court to force a company to buy back shares of members if the courts believe the company is acting prejudicial to their interests.	
		Section 252	Member's remedy in case of oppressive or unfairly prejudicial conduct (1) Any member of a company who complains that any particular act or omission of a company is unfairly prejudicial, unjust or inequitable, or that the affairs of the company are being conducted in a manner unfairly prejudicial, unjust or inequitable to him or to some part of the members of the company, may, subject to the provisions of subsection (2), make an application to the Court for an order under this section. (2) Where the act complained of relates to - (a) any alteration of the memorandum of the company under section 55 or 56; (b) any reduction of the capital of the company under section 83; (c) any variation of rights in respect of shares of a company under section 102; or (d) a conversion of a private company into a public company or of a public company into a private company under section 22, an application to the Court under subsection (1) shall be made within six weeks after the date of the passing of the relevant special resolution required in connection with the particular act concerned. (3) If on any such application it appears to the Court that the particular act or omission is unfairly prejudicial, unjust or inequitable, or that the company's affairs are being conducted as aforesaid and if the Court considers it just and equitable, the Court may, with a view to bringing to an end the matters complained of, make such order as it thinks fit, whether for regulating the future conduct of the company's affairs or for the purchase of the shares of any members of the company by other members thereof or by the company and, in the case of a purchase by the company, for the reduction accordingly of the company's capital, or otherwise. […]	Companies Act No. 61 of 1973

Pre-emptive right to new issues	1	**SUMMARY**	It is a general principle of company law that existing shareholders have pre-emptive rights. For companies listed on the JSE, this right is explicitly set out in section 3.32 of the Listings Requirements. This right can be waived by shareholders in terms of section 3.34 read together with sections 5.68 and 5.69 of the Listings Requirements. In order to waive pre-emptive rights, a resolution must be passed by seventy five percent of shareholders at a general meeting.	
		Section 3.30	Pre-emptive rights Subject to paragraphs 3.32 and 3.33, a listed company proposing to issue equity securities for cash must first offer those securities by rights offer to existing equity shareholders in proportion to their existing holdings. Only to the extent that the securities are not taken up by such persons under the offer may they then be issued for cash to others or otherwise than in the proportion mentioned above.	Listing Requirements of the JSE
		Section 3.31	To the extent permitted by the Registrar of Companies and subject to the prior approval of the JSE, an issuer need not comply with paragraph 3.30 with respect to securities that the directors of the issuer consider necessary or expedient to be excluded from the offer because of legal impediments or because of compliance with the requirements of any regulatory body of any territory recognised as having import on the law.	
		Section 3.32	Waive of pre-emptive rights To the extent that holders of securities of an issuer provide their authorisation by way of ordinary resolution (determined in accordance with paragraph 5.51(g) or 5.52(e)) issues by a issuer of equity securities for cash made otherwise than to existing holders of securities in proportion to their existing holdings will be permitted in respect of a specific issue of equity securities for cash, for a fixed period of time thereafter in accordance with such general authority.	
		Section 3.33	However, in exceptional circumstances (such as rescue operations), the JSE, in its sole discretion, may grant an issuer dispensation from the normal requirements relating to issues of shares for cash. In these circumstances, the JSE, in its sole discretion, may require the publication of such information relating to the dispensation, as it deems appropriate.	
		Section 5.51	Requirements for specific issues of shares for cash 5.51 An applicant may only undertake a specific issue of shares for cash subject to satisfactory compliance with the following requirements: [...] (g) approval of the specific issue for cash resolution by achieving a 75% majority of the votes cast in favour of such resolution by all equity securities holders present or represented by proxy at the general meeting convened to approve such resolution, excluding any parties and their associates participating in the specific issue for cash.	

		Section 5.52	Requirements for general issues of securities for cash 5.52 An applicant may only undertake a general issue for cash subject to satisfactory compliance with the following requirements: […] (e) approval of the general issue for cash resolution by achieving a 75% majority of the votes cast in favour of such resolution by all equity securities holders present or represented by proxy at the general meeting convened to approve such resolution. The resolution must be worded in such a way as to include the issue of any options/convertible securities that are convertible into an existing class of equity securities, where applicable.	
% of share capital to call an ESM	5%	**SUMMARY**	Shareholders holding five percent of the share capital can request a meeting.	
		Section 181	Calling of general meetings on requisition by members (1) The directors of a company shall, notwithstanding anything in its articles, on the requisition of - (a) one hundred members of the company or of members holding at the date of the lodging of the requisition not less than one-twentieth of such of the capital of the company as at the date of the lodgment carries the right of voting at general meeting of the company; or (b) in the case of a company not having a share capital, one hundred members of the company or of members representing not less than one-twentieth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, within fourteen days of the lodging of the requisition issue a notice to members convening a general meeting of the company for a date not less than twenty-one and not more than thirty-five days from the date of the notice. […]	Companies Act No. 61 of 1973
Mandatory dividend	0	**SUMMARY**	There is no restriction as to the size of a dividend in the laws, and therefore there is no mandatory dividend.	
		Schedule 1, Section 84	The company in annual general meeting may declare dividends but no dividend shall exceed the amount recommended by the directors.	Companies Act No. 61 of 1973
		Schedule 1, Section 86	No dividend shall be paid otherwise than out of profits, or bear interest against the company.	

South Africa – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The version of the Companies Act No. 61 of 1973 used was that given at http://www.acts.co.za/: Since 2001 the following amendments were made to this Act: • Companies Amendment Act 35 of 2001 as published in GG No. 22885 dated December 03, 2001 • Judicial Matters Amendment Act 55 of 2002 as published in GG No. 24277 dated January 17, 2003 • Insolvency Second Amendment Act 69 of 2002 as published in GG No. 24285 dated January 22, 2003 • Corporate Laws Amendment Act 39 of 2002 as published in GG No. 24280 dated January 22, 2003 • Judicial Matters Amendment Act 16 of 2003, as published in GG No. 25196 dated July 10, 2003 [with effect from 9 July 2004] • Prevention and Combating of Corrupt Activities Act 12 of 2004, as published in GG No. 26311 dated April 28, 2004 • Companies Amendment Act 20 of 2004, as published in GG No. 26908 dated October 20, 2004; • Securities Services Act 36 of 2004, as published in GG No. 27190 dated January 24, 2005; Since 2001 the Insolvency Act No. 24 of 1936, none of the amendments to this act (in 2002 and 2003), or the Judicial Matters Amendments Acts (2001, 2003 & 2004), or the Securities Services Act No. 36 of 2004 affect the sections referenced below. The South African Companies Act No. 61 of 1973 has two systems concerning failing companies: winding-up, Chapter XIV, and judicial management, Chapter XV.	
Restrictions on going into reorganisation	1	**SUMMARY**	All attempts to place the company under judicial management have to go via the courts. Section 427, read in conjunction with 346, states who can apply to put a company into judicial management and why, and Section 432 states that the courts, on considering the opinion the creditors of the company, may make the judicial order final at their discretion.	

		Section 427	Circumstances in which company may be placed under judicial management (1) When any company by reason of mismanagement or for any other cause - (a) is unable to pay its debts or is probably unable to meet its obligations; and (b) has not become or is prevented from becoming a successful concern, and there is a reasonable probability that, if it is placed under judicial management, it will be enabled to pay its debts or to meet its obligations and become a successful concern, the Court may, if it appears just and equitable, grant a judicial management order in respect of that company. (2) An application to Court for a judicial management order in respect of any company may be made by any of the persons who are entitled under section 346 to make an application to Court for the winding-up of a company, and the provisions of section 346(4)(a) as to the application for winding-up shall mutatis mutandis apply to an application for a judicial management order. (3) When an application for the winding-up of a company is made to Court under this Act and it appears to the Court that if the company is placed under judicial management the grounds for its winding-up may be removed and that it will become a successful concern and that the granting of a judicial management order would be just and equitable, the Court may grant such an order in respect of that company.	Companies Act No. 61 of 1973
		Section 428	Provisional Judicial Management Order (1) The Court may on an application under Section 427(2) or (3) grant a provisional judicial management order, stating the return day, or dismiss the application or make any other order that it deems just. […] (3) The Court which has granted a provisional judicial management order, may at any time and in any manner, on the application of the applicant, a creditor or member, the provisional judicial manager or the Master, vary the terms of such order or discharge it.	

		Section 346	Application for winding-up of company (1) An application to the Court for the winding-up of a company may, subject to the provisions of this section, be made- (a) by the company; (b) by one or more of its creditors (including contingent or prospective creditors); (c) by one or more of its members, or any person referred to in section 103(3), irrespective of whether his name has been entered in the register of members or not; (d) jointly by any or all of the parties mentioned in paragraphs (a), (b) and (c); (e) in the case of any company being wound up voluntarily, by the Master or any creditor or member of that company; or (f) in the case of the discharge of a provisional judicial management order under section 428(3) or 432(2), by the provisional judicial manager of the company. (2) A member of a company shall not be entitled to present an application for the winding-up of that company unless he has been registered as a member in the register of members for a period of at least six months immediately prior to the date of the application or the shares he holds have devolved upon him through the death of a former holder and unless the application is on the grounds referred to in section 344 (b), (c), (d), (e) or (h). […]	
		Section 432	Return day of provisional order of judicial management and powers of the Court (1) Any return day fixed under section 428(1) shall not be later than sixty days after the date of the provisional judicial management order but may be extended by the Court on good cause shown. (2) On such return day the Court may after consideration of- (a) the opinion and wishes of creditors and members of the company; (b) the report of the provisional judicial manager under section 430; (c) the number of creditors who did not prove claims at the first meeting of creditors and the amounts and nature of their claims; (d) the report of the Master; and (e) the report of the Registrar, grant a final management order if it appears to the Court that the company will, if placed under judicial management, be enabled to become a successful concern and that it is just and equitable that it be placed under judicial management, or may discharge the provisional order or make any other order it may deem just. […]	
No automatic stay on assets	0	**SUMMARY**	Section 429(a), regarding judicial management, states that upon granting a provisional judicial order all property shall be in the custody of the master until a provisional judicial manager has been appointed, which is akin to an automatic stay on the assets. It is the job of the provisional judicial manager to possess all the assets of the company, which would continue until the return day of the provisional order, as stated in Section 432.	
		Section 429	Custody of property and appointment of provisional judicial manager on the granting of judicial management order upon the granting of a provisional judicial management order (a) all the property of the company concerned shall be deemed to be in the custody of the Master until a provisional judicial manager has been appointed and has assumed office; […]	Companies Act No. 61 of 1973

		Section 430	Duties of provisional judicial manager upon appointment A provisional judicial manager shall (a) assume the management of the company and recover and reduce into possession all the assets of the company; […]	
		Section 432	Return day of provisional order of judicial management and powers of the Court (1) Any return day fixed under section 428(1) shall not be later than sixty days after the date of the provisional judicial management order but may be extended by the Court on good cause shown. (2) On such return day the Court may after consideration of – (a) the opinion and wishes of creditors and members of the company; (b) the report of the provisional judicial manager under section 430; (.c) the number of creditors who did not prove claims at the first meeting of creditors and the amounts and nature of their claims; (d) the report of the Master; and (e) the report of the Registrar, grant a final management order if it appears to the Court that the company will, if placed under judicial management, be enabled to become a successful concern and that it is just and equitable that it be placed under judicial management, or may discharge the provisional order or make any other order it may deem just. (3) A final judicial management order shall contain-- (a) directions for the vesting of the management of the company, subject to the supervision of the Court, in the final judicial manager, the handing over of all matters and the accounting by the provisional judicial manager to the final judicial manager and the discharge of the provisional judicial manager, where necessary; (b) [Deleted by s. 13 of Act No. 84 of 1980.] (c) such other directions as to the management of the company, or any matter incidental thereto, including directions conferring upon the final judicial manager the power, subject to the rights of the creditors of the company, to raise money in any way without the authority of shareholders, as the Court may consider necessary. (4) The Court which has granted a final judicial management order, may at any time and in any manner vary the terms of such order on the application of the Master, the final judicial manager or a representative acting on behalf of the general body of creditors of the company concerned by virtue of a resolution passed by a majority in value and number of such creditors at a meeting of those creditors.	
Secured creditors first (paid)	1	**SUMMARY**	In a winding up process the secured creditors get paid first (see Section 366 and the Insolvency Act 24 of 1936, Section 94 of which discusses the order in which claims are to be paid, as set out in Sections 95 to103). In the case of judicial management, section 435 allows for secured creditors to be the first to be paid after the costs of judicial management.	

		Section 366	Claims and proof of claims (1) In the winding-up of a company by the Court and by a creditors' voluntary winding-up- (a) the claims against the company shall be proved at a meeting of creditors mutatis mutandis in accordance with the provisions relating to the proof of claims against an insolvent estate under the law relating to insolvency; (b) a secured creditor shall be under the same obligation to set a value upon his security as if he were proving his claim against an insolvent estate under the law relating to insolvency, and the value of his vote shall be determined in the same manner as is prescribed under that law; (c) a secured creditor and the liquidator shall, where the company is unable to pay its debts, have the same right respectively to take over the security as a secured creditor and a trustee would have under the law relating to insolvency.	Companies Act No. 61 of 1973
		Section 94	Form of plan of distribution A plan of distribution shall show in parallel columns under separate headings (a) every claim of the part of every claim against the estate in question which is secured or otherwise preferent; (b) every claim or the part of every claim against the estate which is unsecured or otherwise non-preferent; (c) the amount awarded under that plan and under any previous plan of distribution to every creditor of the estate; (d) the deficiency in respect of each claim; and shall make provision for the division of the proceeds of the property in the insolvent estate in the order of preference and in the manner set forth in sections ninety-five to one hundred and four inclusive.	Insolvency Act 1936
		Section 95	Application of proceeds of securities (1) The proceeds of any property which was subject to a special mortgage, landlord's legal hypothec, pledge or right of retention, after deduction therefrom of the costs mentioned in subsection (1) of section 89 [cost of maintaining property], shall be applied in satisfying the claims secured by the said property, in their order of preference, [...]	
		Section 435	Pre-judicial management creditors may consent to preference (1) (a) The creditors of a company whose claims arose before the granting of a judicial management order in respect of such company may at a meeting convened by the judicial manager or provisional judicial manager for the purpose of this subsection or by the Master in terms of section 429(b)(ii), resolve that all liabilities incurred or to be incurred by the judicial manager or provisional judicial manager in the conduct of the company's business shall be paid in preference to all other liabilities not already discharged exclusive of the costs of the judicial management, and thereupon all claims based upon such first-mentioned liabilities shall have preference in the order in which they were incurred over all unsecured claims against the company except claims arising out of the costs of the judicial management.	Companies Act No. 61 of 1973
Management replaced	1	**SUMMARY**	In a judicial management procedure the management of the company is replaced by a provisional judicial manager (Sections 428, 429 and 430) and then a final judicial manager (Section 433).	

		Section 428	Provisional judicial management order (1) The Court may on an application under section 427(2) or (3) grant a provisional judicial management order, stating the return day, or dismiss the application or make any other order that it deems just. (2) A provisional judicial management order shall contain- (a) directions that the company named therein shall be under the management, subject to the supervision of the Court, of a provisional judicial manager appointed as hereinafter provided, and that any other person vested with the management of the company's affairs shall from the date of the making of the order be divested thereof; […]	Companies Act No. 61 of 1973
		Section 429	Custody of property and appointment of provisional judicial manager on the granting of judicial management order- (1) Upon the granting of a provisional judicial management order (a) all the property of the company concerned shall be deemed to be in the custody of the Master until a provisional judicial manager has been appointed and has assumed office; (b) the Master shall without delay (i) appoint, in accordance with policy determined by the Minister, a provisional judicial manager (who shall not be the auditor of the company or any person disqualified under this Act from being appointed as liquidator in a winding-up) who shall give such security for the proper performance of his duties in his capacity as such, as the Master may direct, and who shall hold office until discharged by the Court as provided in section 432(2)(a); (ii) convene separate meetings of the creditors, the members and debenture holders (if any) of the company for the purposes referred to in section 431.	
		Section 430	Duties of provisional judicial manager upon appointment (1) A provisional judicial manager shall- (a) assume the management of the company and recover and reduce into possession all the assets of the company; […]	
		Section 433	Duties of final judicial manager (1) A judicial manager shall, subject to the provisions of the memorandum and articles of the company concerned in so far as they are not inconsistent with any direction contained in the relevant judicial management order - (a) take over from the provisional judicial manager and assume the management of the company; […]	
Legal reserve	0	**SUMMARY**	Section 87 of Schedule 1 states that company directors can put profits into a reserve, but does not stipulate they have to (so there is no legal reserve). However, section 344 says that when seventy five percent of the issued share capital has been lost the company may be wound up by the Court.	

		Schedule 1: Table A - Articles for a Public Company having a Share Capital; Section 87	The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think fit as a reserve or reserves, which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied and, pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.	Companies Act No. 61 of 1973
		Section 344	Circumstances in which company may be wound up by Court (1) A company may be wound up by the Court if- […] (e) seventy-five per cent of the issued share capital of the company has been lost or has become useless for the business of the company; […]	

South Korea – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The Korean Commercial Code (KCC) was extensively changed in 1998, 1999 and July 24, 2001, each amendment representing the government's attempt to correct some structural problems in corporate Korea. For example, the major focus of the 1998 amendments was to address the failures that were exposed during the financial crisis. The 1998 amendments included provisions to simplify the mergers and acquisitions process, increase the accountability of de facto directors, and strengthen minority shareholder rights. Another relevant major law is the Securities Exchange Act (SEA). The SEA was revised in 2001 to clarify the fiduciary responsibility of directors and lower the threshold for exercising rights to file class action suits, make proposals at a general shareholders meeting, inspect companies' financial accounts, and request the dismissal of directors or internal auditors. A revised draft of the KCC was presented by the government to the National Assembly in October this year. This draft includes some major changes, notably: separation of executive officers and the board of directors; double derivative action, under which the shareholders of a parent company can file a suit against the directors of an affiliated company; abolition of minimum capital regulation, and abolition of the limitation on the amount of a corporate bond issuance.	1998 KCC, 1999 KCC, 2001 KCC, 2001 SEA
One share-one vote	1	**SUMMARY**	The KCC requires a company to give its shareholders one vote for each share (Article 369). However, different classes of shares are allowed, as specified by Article 370.	
		Article 369	(Votes) (1) A shareholder shall have one vote for each share; (2) The company shall not be entitled to vote in respect of its own shares; (3) In the case where a company, its parent company and its subsidiary company together or its subsidiary company alone holds more than 1/10 of the total outstanding shares of another company, the shares of the company or of the parent company held by such another company shall not be entitled to vote.	2001 KCC, amended December 29, 2001
		Article 370	(Non-voting Shares) (1) In the case where a company issues different classes of shares, the articles of incorporation may provide that a shareholder of a certain class of shares having preferential rights as to the dividend of profits shall not be entitled to vote: provided, that such shareholder shall be entitled to vote from the general meeting where a resolution disallowing the preferred dividend, as provided in the articles of incorporation, is adopted until the time of closing of the general meeting where a resolution allowing such dividend is adopted. (2) The total number of non-voting shares mentioned in paragraph (1) shall not exceed 1/4 of the total outstanding shares.	

Proxy by mail allowed	1	**SUMMARY**	The KCC provides for proxy voting by mail (Article 368-3).	
		Article 368-3	(Exercise of Voting Right in Writing) (1) Shareholders may exercise their voting rights in writing in lieu of attending the general meeting (2) Notice for the convocation of the general meeting shall be accompanied by reference materials and documents necessary for shareholders to exercise their voting rights under paragraph (1).	2001 KCC, amended December 29, 2001
Shares not blocked before meeting	1	**SUMMARY**	The KCC requires that a shareholder holding bearer share certificates deposit his share certificates before he exercises his rights (Article 358). However, there is no such requirement for registered shares.	
		Article 357	(Issuance of Bearer Share Certificates) (1) A bearer share certificate may be issued only if it is so provided in the articles of incorporation. (2) A shareholder may at any time demand of the company that a bearer share certificate be converted into a registered share certificate.	2001 KCC, amended December 29, 2001
		Article 358	(Exercise of Rights by Shareholders Holding Bearer Share Certificates) The owner of a bearer share certificate may not exercise his rights as a shareholder unless he deposits his share certificate with the company.	
		Article 368	(Method of Adopting Resolutions and Exercise of Voting Rights) […] (2) Persons holding bearer share certificates shall deposit them with the company one week prior to the date set for the meeting.	
Cumulative voting / proportional representation	1	**SUMMARY**	Shareholders with at least three percent of the total shares can request cumulative voting when more than two directors are elected. Companies must accept such a request unless they have added a provision in their articles of incorporation to exclude it. According to Kim ["Korean Commercial Code Amendments", University of Pennsylvania Journal of International Economic Law, VOL. 21:2 (2000)]: "Amending the articles of incorporation requires a special majority vote at a shareholders meeting, which may be a considerable burden. One problem with this provision is that, unlike the other provisions of the 1998 KCC, it did not become effective until June 28, 1999. Any election of directors preceding that date did not have to be executed with cumulative voting, and companies were granted a chance to adopt exclusionary provisions to prohibit it. According to the Korea Stock Exchange, of the 516 listed companies with fiscal years ending in December 1998, 386 companies, or 74.8%, managed to enact provisions excluding cumulative voting."	

		Article 382-2	(Cumulative voting) (1) In the case where a general meeting of a company is convened to elect two directors or more, shareholders who hold no less than 3/100 of the total outstanding shares other than nonvoting shares may request that the company elect directors by means of a concentrated vote, except as otherwise provided by the articles of incorporation. [...]	2001 KCC, amended December 29, 2001
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	The KCC provides detailed mechanisms (appraisal rights) for shareholders to step out of the company by requiring the company to purchase their shares when they object to certain fundamental changes that affect their rights as shareholders. For example, in the following situations: (1) if a shareholder disagrees with a merger proposal or a significant sale or purchase of business operations; (2) if a shareholder disagrees with a spin-off merger; or (3) if a shareholder's transfer of shares is denied. In the first two cases, where a shareholder disagrees with a merger or a significant sale or purchase of business operations, or with a spin-off merger, that shareholder can request appraisal rights. See also 2001 KCC Articles 335-6 (Right of Shareholders to Request Purchase of Share), Article 374-2 (Rights of Dissenting Shareholders to request the purchase of shares), Article 522-3 (mergers), and Article 530-11 (spin-off mergers).	
		Article 374-2	(Rights of Dissenting Shareholders to request the purchase of shares) (1) If a shareholder who dissents from the subject-matters of resolution set forth in Article 374 (Resolution for Transfer, Takeover or Lease of Business) has notified the company in writing of his intention of such dissent before the general shareholders' meeting, he may request the company in writing to purchase the shares owned by him, which request shall be made within twenty days after the resolution is adopted at the general meeting and shall specify the class and number of such shares. (2) The company shall purchase the shares within two months after receiving the request under paragraph (1). (3) The purchase price of the shares pursuant to paragraph (2) shall be determined through a negotiation between the shareholder and the company. (4) Where the negotiation under paragraph (3) has not been attained within 30 days since the receipt of a request under paragraph (1), the company or the shareholder requesting the purchase of shares may request the court to determine the purchase price. (5) Where a court makes a decision on the purchase price of shares under paragraph (4), the said court shall compute it by a fair value in view of the assets status of the company and other situations.	2001 KCC, amended December 29, 2001
Preemptive right to new issues	1	**SUMMARY**	The KCC provides shareholders with preemptive rights.	

		Article 418	(Contents of Preemptive Rights, Designation and Public Notice of Record Date for Allotment) (1) Each shareholder shall be entitled to the allotment of new shares in proportion to the number of shares that he holds. […]	2001 KCC, amended December 29, 2001
		Article 419	[…] (2) If the company has issued bearer share certificates, a public notice on matters set forth in paragraph (1) shall be given. (3) The notification under paragraph (1) and the public notice under paragraph (2) shall be given at least two weeks before the date set forth in paragraph (1). (4) In the case where a holder of preemptive rights fails to apply for the subscription for new shares on or before the specified date notwithstanding the notification under paragraph (1) or the public notice under paragraph (2), his rights shall be forfeited.	
% of share capital to call an ESM	3%	**SUMMARY**	The KCC provides that shareholders who hold no less than three percent of the total outstanding shares may demand the convocation of an extraordinary general meeting.	
		Article 366	(Demand for Convocation by Minority Shareholders) (1) Shareholders who hold no less than 3% of the total outstanding shares may demand the convocation of an extraordinary general meeting, by submitting to the board of directors a written statement of the proposed subject matters of the meeting together with the reasons for the proposed convocation. [...]	2001 KCC, amended December 29, 2001
Mandatory dividend	0	**SUMMARY**	There is no specific requirement for mandatory dividend in Korean law.	

South Korea – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The Debtor Workout (Rehabilitation) and Bankruptcy Act (DWB) came into force on April 1, 2006. This act integrated the previous Bankruptcy Act and the Corporate Reorganisation Act, with the provisions of the Composition Act being for the most part discarded. Specific laws that deal with individual debtors were needed, and this Act provides for a rehabilitation program for individual debtors who have income but who are otherwise in danger of bankruptcy, discharging them from going through the bankruptcy procedure. This new law applies the same procedures to individuals as to minor and major companies. The major changes in this Act are that the composition procedure is abolished and that the management of a reorganising company does not necessarily change upon entering the reorganisation procedure, and that the law applies extra-territorially. Insolvency laws in the Republic of Korea previously consisted of (i) the Bankruptcy Act, (ii) the Composition Act and (iii) the Corporate Reorganisation Act. The Composition Act has its origins in Austrian Law and the Bankruptcy Act in the German system. Both were introduced to the Republic of Korea via Japan. The Corporate Reorganisation Act was largely modelled along the lines of US federal law, such as the US "Chapter 11" protections. The Korean government amended the bankruptcy laws in 1998, simplifying legal proceedings for corporate rehabilitation and bankruptcy filing, streamlining provisions for nonviable firms to exit markets, and improving credit bank representation during resolution. The authorities also attempted to expedite court insolvency proceedings granting district courts the authority to process cases.	Debtor Workout and Bankruptcy Act
Restrictions on going into reorganisation	1	**SUMMARY**	There are two important restrictions. Firstly, the courts only approve the reorganisation plans that have two thirds consensus reached by non-secured creditors and three quarters consensus by secured creditors (Article 37). Secondly, the DWB provides that the corporate reorganisation proceedings should meet several prerequisites stated in the Act (Article 42).	Debtor Workout and Bankruptcy Act

		Article 237	(Requirements for Adoption) The adoption of any draft reorganisation at a meeting of interested persons shall be made according to what falls under any of the following subparagraphs: (1) Reorganisation creditor group: A consent of persons holding voting rights corresponding to not less than two-thirds of the gross amount of the voting rights of reorganization creditors who can exercise their voting rights is required; (2) Reorganisation security holder group: (a) with respect to the draft reorganisation program under the provisions of Article 220, a consent of persons holding voting rights corresponding to not less than three-quarters of the gross amount of the voting rights of reorganisation security holders who can exercise their voting rights is required; and (b) with respect to the draft reorganisation programme under the provisions of Article 222, a consent of no less than four-fifths of reorganisation security holders who can exercise their voting rights is required; (3) Shareholder group: a consent of persons holding voting rights corresponding to no less than half of the total number of the voting rights of stockholders who can exercise their voting rights is required.	Debtor Workout and Bankruptcy Act
		Article 42	(Conditions for Turning Down Application for Commencement of Proceedings) The court shall turn down any application for the commencement of reorganisation proceedings in the cases falling under any of the following subparagraphs. In these cases, the court shall seek opinions from the management committee: (1) Where the expenses for the rehabilitation procedures have not been paid in advance. (2) Where the application is not sincere. (3) Where the application of rehabilitation procedures is not in the general interest of debtors.	
No automatic stay on assets	1	SUMMARY	The Act does not impose an automatic stay on the firm's assets. However, during the corporate reorganisation proceedings, the judge can grant an injunction to preserve a company's assets. The judge can exercise this power to protect a firm's assets from non-secured creditors as well as secured creditors.	Debtor Workout and Bankruptcy Act
		Article 43	(Provisional Seizure, Provisional Disposition, and Other Preservative Measures) (1) The court may, upon the application of an interested person or ex officio, order the provisional seizure or provisional disposition, or any other necessary preservative measure in respect of the affairs and property of the company, when an application for the commencement of rehabilitation proceedings is made. In this case, it shall seek opinions from the management committee. [...]	Debtor Workout and Bankruptcy Act

		Article 44	(Order, etc. of Suspension of Other Proceedings) (1) Where an application has been made for the commencement of reorganisation proceedings, the court may, if it deems it necessary, upon the application of an interested person or ex officio, order the suspension of proceedings that fall under any of the following subparagraphs, until a decision on the application for the commencement of reorganisation proceedings is reached, provided that this shall not apply in respect of compulsory execution, provisional seizure or injunctions, or auction proceedings where it might inflict an unreasonable loss on the creditors or person requesting the auction. (i) any bankruptcy proceedings in respect of the debtor, (ii) any compulsory execution, provisional seizure, injunction, and any auction proceedings for the exercise of security interest already taken in respect of company property as a result of reorganisation claims or reorganisation security, (iii) any legal proceedings in respect of the property relationships of the company, (iv) any proceedings of a case concerning the property relationships of the company pending before an administrative agency (v) any proceedings for the recovery of taxes in arrears based on national or regional tax law and disposition of property offered as security. In this case a hearing from the person authorised to collect the taxes is needed. [...]	
Secured creditors first (paid)	1	**SUMMARY**	Generally speaking, secured creditors have priority over non-secured creditors and shareholders, but there is no absolute priority rule. The Korean Insolvency Practice adopts "relative priority rule" [c.f., Jae Hyung Kim (2000): The Criteria for Cancellation of Stocks Based on Business Practices Responsibility in the Corporate Reorganisation Plan, Research on Commercial Law Decisions, Vol. 5, Pakyoungsa, pp. 279-298.]. Secured creditors with lien on mortgages and pledges have priority, according to Article 468 of the KCC. However, some portion of workers' salaries shall be paid in preference to any claims by secured creditors with lien on mortgages and pledges (Article 37, Labour Standards Act)	
		Article 468	(Right to Preferential Payment of Employee) A person who has a claim for the return of money as a guarantee for fidelity of an employee or any other claim arising out of the relations of employment between a company and its employees shall be entitled to preferential payment from the company's whole property: provided that such right shall not have priority over the pledge or mortgage.	2001 KCC, amended December 29, 2001
Management replaced	1	**SUMMARY**	According to The Debtor Rehabilitation and Bankruptcy Act, Article 74, an official, known as the receiver, is appointed by the court to manage the assets in the corporate reorganisation proceedings.	Debtor Workout and Bankruptcy Act

		Article 74	(Receiver Appointment) (1) The court shall appoint a person equal to the task as a receiver by seeking opinions from the management committee and a creditors' conference. (2) The court shall appoint the individual debtor or the representative of the non-individual entity as the receiver provided that this shall not include the following cases: i. Where the reason for the bankruptcy results in the supplanting, concealment of property or in critical liability for insolvent operation of persons that fall under any of the following subparagraphs: (a) individual debtor (b) director of the non-individual debtor (c) executive manager of the debtor ii. Where the creditors' council requests it and considerable reasons are in existence. iii. Where it is necessary for the rehabilitation of the debtor.	Debtor Workout and Bankruptcy Act
Legal reserve	50%	**SUMMARY**	The KCC Article 458 provides that the legal reserve of a company be fifty percent of its capital.	
		Article 458	(Earned Surplus Reserve): A company shall accumulate, as the earned surplus reserve, the amount of at least 1/10 of the cash dividend at each period for the settlement of accounts until the reserve reaches half of the company's capital.	2001 KCC, amended December 29, 2001

Sri Lanka – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Public companies are incorporated under the Companies Act No. 17 of 1982, which came into force on May 20, 1982 and was amended by Amendment Act 33 of 1991. A new Companies Act was passed by Cabinet in October 2005 and went through a second House reading in October 2006. The bill aims to modernise and simplify the incorporation process and operation of Sri Lankan companies by eliminating the memorandum and articles of association (if the company so decides), removing the concept of par value for shares, allowing single shareholder companies, and allowing corporates to manage their own financial structures by permitting companies to buy back their own shares. The bill also introduces minority buyout rights, and provides for the setting up of a companies dispute board. None of the changes affect the points listed below. Public companies listed on a stock exchange are termed listed public companies. The Securities and Exchange Commission of Sri Lanka Act No. 36 of 1987, which came into force on August 27, 1987 and was thereafter amended by Act No. 26 of 1991, established the Securities and Exchange Commission (SEC) and regulates the licensing of Stock Exchanges by it. The SEC of Sri Lanka Rules of 1990 made under that Act specify the listing requirements. The version of the Listing Rules used was that available on the Colombo Stock Exchange website (http://www.cse.lk/home/main.jsp) as of 7/1/2003. The importance of corporate governance is increasingly being recognised, and in this vein, committees are being established to discuss the best means to apply it. The Corporate Governance code existed on a voluntary basis but now there is a need for all listed companies to conform on a mandatory basis. Failure to do so could eventually lead to de-listing. This code forms part of the continuous listing requirements of the stock exchange. An announcement of the commencement date will be made in December 2006. The code covers the following five areas: independent directors, non-executive directors, remuneration committee, audit committee and disclosures.	
One share-one vote	0	**SUMMARY**	Sri Lankan Listing Rules allow for different types of shares, each with different voting rights, or no voting rights. Article 130 of the Companies Act allows for companies to vary voting rights, and Article 135 says there are different classes of members for a company. Nevertheless, most companies adopt a one share-one vote policy, encouraged by the CSE's listing rules, which prohibit companies from issuing non-voting shares if they've already issued voting shares.	
		1.1-3	Non-voting shares will be approved for a quotation only if shares which enjoy voting rights are already quoted on the Exchange.	Listing Rules of the Colombo Stock Exchange

		Article 130	The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf […] (f) in the case of a company having a share capital where voting is by show of hands, each member shall have one vote and on a poll every member shall have one vote in respect of each share or each one hundred rupees of stock, as the case may be, held by him/her and in any other case every member shall have one vote.	Companies Act of 1982
		Article 135	On a poll taken at a meeting of a company or a meeting of any class of members of a company, a member entitled to more than one vote need not, if s/he votes, use or cast all his/her votes in the same way.	
Proxy by mail allowed	0	**SUMMARY**	A proxy is required to be present at voting time, but a chairperson may be instructed to allow proxy by mail.	
		Article 133	(1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his/her proxy to attend and vote instead of him/her […]	Companies Act of 1982
Shares not blocked before meeting	1	**SUMMARY**	There is no such requirement in the Companies Act. The listing rules say that shares should be freely tradable.	
		Section 5	(1) Transfer and Registration of Shares (a) Notwithstanding any provision in these Articles suggesting the contrary, shares quoted on the Colombo Stock Exchange shall be freely transferable and registration of the transfer of such quoted shares shall not be subject to any restriction, save and except to the extent required for compliance with statutory requirements.	Listing Rules of the Colombo Stock Exchange
Cumulative voting / proportional representation	0	**SUMMARY**	There is no reference in the Companies Act or listing rules to cumulative voting or proportional representation. It is to be explicitly addressed in the new Companies Act, which has not yet been approved by the Parliament and may fast-track certain categories of reorganisation.	
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	When affairs of a company are conducted in a manner oppressive to any member, Article 210 (see also 211 to 214) allows for an application to be made to the District Court of the district where the registered office of the company is situated to seek remedy in prejudicial matters. Similarly, Article 216 allows for the obligatory repurchase of shares.	
		Article 210	(1) Any member or members of a company…having complaint that the affairs of a company are being conducted in a manner oppressive to any member…may make an application to the District Court...For an order under the provisions of this section.	Companies Act of 1982

		Article 216	Without prejudice to the generality of the powers of the court conferred by section 210 or section 211, any order made under the provisions of either of such sections may provide for – (b) the purchase of the shares or interests of any members of the company by other members thereof or by the company.	
Pre-emptive right to new issues	0	**SUMMARY**	While the listing rules require rights issues to have a mandatory renunciation, nothing in the listing rules or Companies Act requires shares to be allotted in proportion to the number already held. However, before issuing shares to the public through a general meeting of a company, the approval of shareholders is often obtained.	
		Articles 3.6	(a) In the case of bonus issues of shares the entity may decide to allot the shares to the existing shareholders and to dispense with the renunciation facility if sanctioned by an ordinary resolution passed at a general meeting of the members of the entity. In the case of rights issues of shares the renunciation facility is a mandatory requirement.	Listing Rules of the Colombo Stock Exchange
% of share capital to call an ESM	10%	**SUMMARY**	Shareholders holding not less than ten percent of the paid up capital carrying voting rights can call an ESM.	
		Article 128	(1) The directors of the company, notwithstanding anything in its articles, shall, on requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company...forthwith proceed duly to convene an extraordinary general meeting of the company.	Companies Act of 1982
Mandatory dividend	0	**SUMMARY**	There is no reference in the Companies Act or listing rules to a mandatory dividend. Since Sri Lanka is a developing country, there is debate over what to consider the minimum key financing component of investment. Moreover, it is viewed as unwise to declared dividends, as capital gains are not taxed.	

Sri Lanka – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The new Companies Act is expected to improve creditors rights in the case of insolvency. A clear-cut procedure has been laid down, with creditors and contributories been given the opportunity to question any action in winding up by making an application to Court. Another novel feature is the power granted to the Board of Directors of a company to appoint an administrator to ensure the future survival of the company. The new provisions are likely to come into force during the first quarter of 2007.	
Restrictions on going into reorganisation	1	**SUMMARY**	A reorganisation has to be approved by a majority in number representing three quarters in value of the creditors present and voting at a meeting of creditors and, if sanctioned by court, is binding on other creditors.	
		Article 206	(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them or between the company and its members or any class of them, the court may, on the application of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such a manner as the court directs, for the purpose of sanctioning such a compromise or arrangement. (2) Where a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise, or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.	Companies Act 1982
No automatic stay on assets	1	**SUMMARY**	There is no such law in the arrangements and reconstruction section (Articles 206-209), although Mr. G.G.D. de Silva, a legal consultant at the Central Bank of Sri Lanka, said that the court may make such orders as may be necessary to ensure that the reorganisation is fully and effectively carried out.	
Secured creditors first (paid)	0	**SUMMARY**	Priority is given for taxes due and wages and salaries of employees. Nevertheless, safeguards do exist since creditors can impose conditions on lending, as in the case of bank loans.	

		Article 347	Companies Act 347 (1) In a winding up there shall be paid in priority to other debts (a) income tax charged or chargeable for one complete year prior to the relevant date […] (b) business turnover tax […] (c) all rates, or taxes (other than income tax) [...]	Companies Act 1982
Management replaced	0	**SUMMARY**	The articles applicable to arrangements and reconstructions (Articles 206 to 209) do not call for a change in the management of a company.	
Legal reserve	0	**SUMMARY**	There is no reference in the laws to a legal reserve requirement.	

Taiwan – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Provisions for shareholder rights in Taiwan are found in the Company Law 1929, Amended on November 12, 2001, June 22, 2005 and February 3, 2006.	
One share-one vote	1	**SUMMARY**	The Company Law requires that a company provide shareholders with one share one vote. Different types of shares are allowed, as provided by Article 156.	
		Article 179	I. Except in the circumstances set forth in Item 3, Article 157 hereof, a shareholder shall have one voting power in respect of each share in his/her/its possession. II. The shares shall have no voting power under any of the following circumstances: 1.the share(s) of a company that are held by the issuing company itself in accordance with the laws; 2.the shares of a holding company that are held by its subordinate company, where the total number of voting shares or total shares equity held by the holding company in such a subordinate company represents more than one half of the total number of voting shares or the total shares equity of such a subordinate company; or 3.the shares of a holding company and its subordinate company(ies) that are held by another company, where the total number of the shares or total shares equity of that company held by the holding company and its subordinate company(ies) directly or indirectly represents more than one half of the total number of voting shares or the total share equity of such a company.	Company Law 1929, Amended on November 12, 2001, June 22,2005 and February 3, 2006
		Article 157	Where a company is to issue special shares, it shall include in its articles of incorporation provisions concerning: I. The order, fixed amount or fixed ratio of allocation of dividends and bonus on preferred shares. II. The order, fixed amount or fixed ratio of allocation of surplus assets of the company. III. The order of, or restriction on, or no voting right on the exercise of voting power by preferred shareholders. IV. Other matters concerning rights and obligations of special shares.	
		Article 156	I. The capital of a company limited by shares shall be divided into shares, and each share shall have the same par value. A portion of the shares may be designated as special shares, with the kind of such special shares to be specified in the articles of incorporation. […]	

Proxy by mail allowed	1	**SUMMARY**	Shareholders may vote in person or by proxy (Article 177, Company Law). Taiwan's Securities and Futures Commission and Ministry of Finance also promulgated "Regulations Governing the Use of Proxies for Attendance at Shareholder Meetings of Public Companies" on February 1, 2002. The Rules were further amended on May 15, 2003 and on January 20, 2004 and December 15, 2005. Amendments to the Company Law in 2006 allow proxy by mail and e-mail.	
		Article 177	I. A shareholder may appoint a proxy to attend a shareholders meeting in his/her/its behalf by executing a power of attorney printed by the company stating therein the scope of power authorized to the proxy. II. Except for trust enterprises or stock agencies approved by the competent authority, when a person who acts as the proxy for two or more shareholders, the number of voting power represented by him/her shall not exceed 3% of the total number of voting shares of the company, otherwise, the portion of excessive voting power shall not be counted. III. A shareholder may only execute one power of attorney and appoint one proxy only, and shall serve such written proxy to the company no later than 5 days prior to the meeting date of the shareholders meeting. In case two or more written proxies are received from one shareholder, the first one received by the company shall prevail; unless an explicit statement to supersede the previous written proxy is made in the proxy which comes later.	Company Law 1929, Amended on November 12, 2001 and June 22, 2005
		Article 177-1	The voting power at a shareholders' meeting may be exercised in writing or by way of electronic transmission, provided, however, that the method for exercising the voting power shall be described in the shareholders' meeting notice to be given to the shareholders if the voting power will be exercised in writing or by way of electronic transmission.	Company Law 1929, Amended on February 3, 2006
		Article 177-2	In case a shareholder elects to exercise his/her/its voting power in writing or by way of electronic transmission, his/her/its declaration of intention shall be served to the company no later than the fifth day prior to the scheduled meeting date of the shareholders' meeting, whereas if two or more declarations of the same intention are served to the company, the first declaration of such intention received shall prevail; unless an explicit statement to revoke the previous declaration is made in the declaration which comes later.	Company Law 1929, Amended on February 3, 2006

		Article 14	An agent for stock affairs may, by mandate of the public company, act as the proxy agent of the shareholders of the public company. The shares represented by the agent shall not be subject to the limitation of 3% of the total number of issued shares. A public company may mandate an agent for stock affairs to act as the proxy agent of shareholders only when the election of directors and supervisors has not been proposed in the relevant shareholders meeting. Matters regarding the mandate shall be stated in the instructions in the proxies of the shareholders meeting concerned. An agent for stock affairs mandated to act as the proxy agent of proxies shall not accept the full authorisation of shareholders, and shall, within five days of the close of each shareholders meeting of the public company, prepare a Compilation Report of Shareholders Meeting Attendance by a Proxy Agent comprising the details of proxy attendance at the shareholders meeting, the status of exercise of voting rights under the proxy, copy of the contract, and other matters as required by the FSC, and keep the Compilation Report available at the agent for stock affairs. An agent for stock affairs shall handle the business referred to in Paragraph 1 above impartially and independently.	Regulations Governing the Use of Proxies for Attendance at Shareholder Meetings of Public Companies (Amended January 1, 2004)
Shares not blocked before meeting	1	**SUMMARY**	The Company Law requires a shareholder holding bearer share certificates to deposit his share certificates before he exercises his rights (Article 176). However, there is no such requirement for registered shares.	
		Article 176	A holder of bearer share certificates shall not attend a meeting of shareholders unless he shall have deposited his share certificates with the company five days before the meeting.	Company Law 1929, Amended on November 12, 2001
Cumulative voting / proportional representation	1	**SUMMARY**	The Company Law provides shareholders with rights of cumulative voting for directors. Note however that a company may add a provision in its articles of incorporation to exclude it (Article 198).	
		Article 198	I. Subject to the provisions otherwise provided for in the articles of incorporation, in the process of electing directors at a shareholders meeting, the number of votes exercisable in respect of one share shall be the same as the number of directors to be elected, and the total number of votes per share may be consolidated for election of one candidate or may be split for election of two or more candidates. A candidate to whom the ballots cast represent a prevailing number of votes shall be deemed a director-elect. II. The provision of Article 178 hereof shall not apply to the voting power referred to in the preceding Paragraph.	Company Law 1929, Amended on November 12, 2001
		Article 178	A shareholder who has a personal interest in the matter under discussion at a meeting, which may impair the interest of the company, shall not vote nor exercise the voting right on behalf of another shareholder.	
Oppressed minorities (judicial venue / obligatory share	1	**SUMMARY**	Remedies for oppressed minorities are available through either judicial venue or mechanisms of obligatory share repurchase (Articles 185- 191).	

repurchase)		Article 185	A company shall not do any of the following acts without a resolution adopted by a majority of votes of shareholders who represent two-third or more of the total number of issued shares: […] (major transactions/decisions on the future of the company).	Company Law 1929, Amended on November 12, 2001
		Article 186	A shareholder, who has served a notice in writing to the company expressing his intention to object to such an act prior to the adoption of a resolution at a shareholders meeting in accordance with the provisions of the preceding Article, and also has raised his objection at the shareholders meeting may request the company to buy back all of his shares at the then prevailing fair price, provided, however, this shall not apply if at the time of adopting a resolution under Item 2 of Paragraph 1 of the preceding Article, the shareholders meeting also adopts a resolution for dissolution.	
		Article 189	In case the procedure for convening a shareholders meeting or the method of adopting resolutions thereat is contrary to any law, ordinance or the company's articles of incorporation, a shareholder may, within 30 days from the date of adoption of the said resolution, enter a petition to the court for annulment of such resolution.	
		Article 189-1	Upon receipt of the petition for annulment of a resolution filed under the preceding Article, if the court considers that the fact of violation described in the said petition is insignificant and will do nothing to the prejudice of the resolution, the court may dismiss such petition.	
		Article 190	In case a resolution already registered is annulled by irrevocable judgment of a court, the competent authority shall annul the registration upon notice by the court, or application of an interested party.	
		Article 191	In case the substance of a resolution adopted at a meeting of shareholders is contrary to law or ordinance or the company's Articles of Incorporation, the resolution shall be null and void.	
Preemptive right to new issues	1	**SUMMARY**	The Company Law provides shareholders with preemptive rights. Note that the Law also provides that, when a company issues new shares, there shall be ten to fifteen percent of such new shares reserved for subscription by employees of the company (Article 267).	

		Article 267	I. Unless otherwise approved specifically by the central authority in charge of the object enterprise, when a company issues new shares, there shall be ten to fifteen per cent of such new shares reserved for subscription by employees of the company. II. When a government operated enterprise issues new shares, it may, after obtaining the special approval from the competent authority in charge of the said enterprise, reserve no more than ten per cent of such new shares for subscription by its employees. III. In issuing new shares, a company shall make public announcement and advise, by notice, its original shareholders to subscribe for, with pre-emptive right, the new shares, except those reserved under either of the preceding two paragraphs, in proportion respectively to their original shareholding and shall state in the notice that if any shareholder fails to subscribe for new shares, his right shall be forfeited. Where a fractional percentage of the original shares being held by a shareholder is insufficient to subscribe for one new share, the fractional percentages of the original shares being held by several shareholders may be combined for joint subscription of one or more integral new shares or for subscription of new shares in the name of a single shareholder. New shares left unsubscribed by original shareholders may be open for public issuance or for subscription by specific person or persons through negotiation. The right to subscription of new shares as provided for in the preceding three paragraphs, except those reserved for subscription by employees, may be separated from the rights in original shares and transferable independently. The provisions provided in Paragraphs One and Two under this Article for reserving the right of subscribing new shares by employees shall not apply to the case where the new shares are distributed to original shareholders as dividend shares capitalized with the reserve fund or the value increments of assets. A company may restrain the shares subscribed by its employees under Paragraph One or Paragraph Two of the article from being transferred or assigned to others within a specific period of time which shall in no case be longer than two years. The provisions set out in this Article shall not apply to the company which is merged by or with another company, or is split up, or is under reorganization, or is issuing new shares in accordance with the provisions set out in Article 167-2, Article 262, or Paragraph I, Article 268-1 of this Act. The responsible person of a company violating the provisions of Paragraph I under this Article shall be subject to a fine of not less than NT$ 20,000 but not more than NT$ 100,000.	Company Law 1929, Amended on November 12, 2001 and February 3, 2006
% of share capital to call an ESM	3%	**SUMMARY**	The Company Law provides that a shareholder (or shareholders) who hold more than three percent of the total outstanding shares for a period of one year or longer, may demand the convocation of a special meeting of shareholders (Article 173).	
		Article 173	I. Any or a plural number of shareholder(s) of a company who has (have) continuously held more than three percent of the total number of outstanding shares for a period of one year or a longer time may, by filing a written proposal setting forth therein the subjects for discussion and the reasons, request the board of directors to call a special meeting of shareholders.	Company Law 1929, Amended on November 12, 2001
Mandatory dividend	0	**SUMMARY**	There is no specific requirement for mandatory dividend in the laws of Taiwan.	

			Nevertheless, (89) SFC (1) No. 100116 published on January 3, 1999, the announcement of which is similar in effect to law and binding on listed companies, requires that: 1) TSE and GreTai listed companies disclose dividend policy, including the amount of and kinds of dividend, through the Market Observation Post System; 2) listed companies elucidate the impact on shareholders' rights of dividend policy and the issuance of new bonus shares or share equity; and 3) the dividend policy of listed companies be agreed upon by shareholders meeting and enumerated in the articles of incorporation. The FSC has decided to enforce dividend regulation starting from January 1, 2005. Moreover, administrative regulation promotes the issuing of cash dividends rather than share dividends by listed companies. An effort is being made to amend the law, and the Legislative Yuan is deliberating a draft.	

Taiwan – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The Company Law (Section X Reorganization of a Company) provides a formal rescue mechanism for companies in financial difficulty via Court Reorganisation. This mechanism is available only to companies that publicly issue shares or corporate bonds (Article 282). The Bankruptcy Law amended 1993, states procedures for composition or bankruptcy. In compiling the following table of creditor rights during reorganisation, we have elected to refer to the Company Law Section X, as these provisions are relevant to listed companies.	c.f. ADB Report on Restructuring in Asia http://www.adb.org/ Documents/ Reports/ Restructuring_Asia /Taipei.pdf
Restrictions on going into reorganisation	1	**SUMMARY**	Court Reorganisation may be applied for by the following (Article 282): • The debtor's board of directors. • Shareholders holding ten percent or more of the debtor's shares and have held such shares for at least six months. • Creditors whose have claims equivalent to at least ten percent or more of the capital from the total number of shares issued. • Interested parties are divided into three groups: secured creditors, unsecured creditors and shareholders (Article 298). The reorganisation plan must be approved by simple majority vote within each group of "concerned persons" with the qualification that if the debtor has negative net worth, the shareholders lose their right to vote on the plan (Article 302).	
		Article 282	I. Where a company which publicly issues shares or corporate bonds suspends its business due to financial difficulty or there is an apprehension of suspension of business thereof, but there is a possibility for the company to be constructed or rehabilitated, the company or any of the following interested parties may apply to the court for reorganization: 1). Shareholders who have been continuously holding shares representing ten per cent or more of the total number of issued shares for a period of six months or longer; or 2).Creditors of the company who have claims equivalent to ten per cent or more of the capital from the total number of issued shares. II. For filing the reorganization application by a company under the preceding Paragraph, the Board of Directors of the company shall adopt a resolution by a majority vote of the directors present at a meeting of the Board of Directors attended by over two-thirds of all directors.	Company Law 1929, Amended on November 12, 2001 and February 3, 2006

		Article 298	The reorganizing supervisor shall, […], prepare lists of preferred creditors in reorganization, secured creditors in reorganization, unsecured creditors in reorganization, and shareholders respectively, stating therein the nature of their rights, ..., and publicly announce the date and place of such keeping so that the creditors in reorganization, shareholders, and other interested persons may inspect, [...] The number of votes of creditors in reorganization shall be determined in proportion to the amounts of money involved in their credits. The number of votes of shareholders shall be that provided in the articles of incorporation.	
		Article 302	At the meeting of concerned persons, the voting right shall be exercised in groups of claimants as provided in Paragraph 1 of Article 298, and resolutions shall be adopted by a majority vote of over one-half of the aggregate votes of different groups. In the event that there is no net value of capital of the company, the shareholders group shall not exercise voting right.	
No automatic stay on assets	0	**SUMMARY**	If the court approves reorganisation, there is a stay on the debtor's assets and the rights of creditors (including secured ones) cannot be exercised unless in accordance with reorganisation procedures (Article 296).	
		Article 294	After a ruling for reorganization is rendered, all procedures of bankruptcy, composition, compulsory execution and other litigation involving property shall be suspended in due course.	Company Law 1929, Amended on November 12, 2001
		Article 296	All rights of creditors of the company established prior to the ruling for reorganization shall be rights of creditors in reorganization; all rights with preference for repayment according to law shall be preferred rights of creditors in reorganization; all rights secured by mortgages, pledges or rights of retention shall be secured rights of creditors in reorganization; and all rights without such security shall be rights of creditors without security. All such rights of creditors shall all not be exercised unless in accordance with reorganization procedures. The provisions of the Bankruptcy Law relating to the rights of creditors in bankruptcy, with the exception of provisions governing right of discrimination, and preferential rights shall apply mutatis mutandis to the aforesaid rights of creditors. Rights of retrieval, rescission or set off shall be exercised against the reorganizers.	
Secured creditors first (paid)	1	**SUMMARY**	Secured creditors have "exclusion rights" and can exercise their rights without complying with the bankruptcy procedure and are entitled to priority payment.	

		Article 108	A person who has a pledge, a mortgage or a lien on the properties of the debtor prior to the adjudication of bankruptcy shall have the right of exclusion in respect of such properties. Creditors who have the right of exclusion can exercise their right without complying with the bankruptcy procedure.	Bankruptcy Law 1935, amended 1993 and Company Law
		Article 109	Creditors having rights of exclusion may take the obligatory claims remaining unpaid after exercising the right of exclusion as the obligatory claims provable in bankruptcy and exercise their right.	
		Article 112	Obligatory claims entitled to priority in the properties of the bankrupt's estate shall be repaid in advance of other obligatory claims. Where several preferred obligatory claims are of the same priority order, repayments shall be made in proportion to the amounts of each obligatory claims.	
		Article 328	The liquidator shall not effect performance in favour of any of the creditors during the period fixed for declaring their rights of claims as provided in the preceding Article, unless the obligation is a secured one and approval has been obtained from the court for repayment. To the aforesaid unpaid creditors, the company shall, notwithstanding the provisions of the preceding paragraph, be liable in damages as may be caused by delay. In case the assets of the company are apparently sufficient to pay its debts, the aforesaid creditors who may hold the company liable in damage may be first paid with the approval of the court.	
Management replaced	1	**SUMMARY**	According to the Company Law (Articles 289, 290 and 293), if the court approves reorganisation, it will appoint a reorganiser who has powers similar to a receiver/trustee in other jurisdictions and a reorganisation supervisor who has certain oversight powers/responsibilities with respect to the activities of the reorganiser. The reorganiser is mandated by the court to manage the operation of the business of the debtor, register debts, formulate a plan and obtain approval for it.	
		Article 293	After delivery of the ruling for reorganization of the company, the operation of the business of the company and the power of controlling and disposing of the property thereof shall be transferred to the reorganizers, and the reorganizing supervisor shall supervise such transfer, which shall then be reported to the court. Upon such transfer, the shareholders meeting, directors and supervisors shall cease to perform their duties and to exercise their powers. […]	Company Law 1929, Amended on November 12, 2001
		Article 289	I. At the time of ruling for reorganizers, the court shall select and appoint a person with specialized knowledge and experience in the operation of the business of such company or a banking institution as reorganizers supervisor and decide on the following matters: […]	

		Article 290	I. The reorganizers of the company shall be selected and appointed by the court from among the relevant experts recommended by creditors, shareholders, directors, the central authority in charge of the relevant end enterprise, and/or the authority in charge of securities affairs. II. In the meeting of interested parties, if the result of the voting conducted in groups under Article 302 shows that two or more groups prefer a change of reorganizers, a list of candidates may be submitted to the court along with an application for such change. III. In case there is a plural number of reorganizers, execution of all matters relating to reorganization shall be effected by a majority vote of them. IV. In the execution of duties, the reorganizers shall secure the prior consent of the reorganization supervisor.	
Legal reserve	10%	**SUMMARY**	The Company Law provides for a legal reserve of ten percent of a company's authorized capital (Article 237).	
		Article 237	A company, when allocating its surplus profits after having paid all taxes and dues, shall first set aside ten percent of said profits as legal reserve. Where such legal reserve amounts to the total authorized capital, this provision shall not apply. Aside from the aforesaid legal reserve, the company may, under its articles of incorporation or by resolution of the meeting of shareholders, set aside another sum as special reserve.	Company Law 1929, Amended on November 12, 2001

Thailand – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The relevant legislation is the Civil and Commercial Code (Book III, revised and promulgated by Royal Decree, B.E. 2471 (1928)), for limited companies, and the Public Limited Company Act B.E. 2535 (1992) for public limited companies regardless of whether they are listed on the exchange). In addition, the Securities and Exchange Act B.E. 2535 (1992) covers false disclosure if the securities offered for sale are stocks. The SEC Board approved the proposal for amendments to the SEC Act which, among others, will further define shareholder's rights (especially minority shareholders), improve corporate governance through defining the roles and responsibilities of executives of listed companies and address related party transactions. The law will likely be passed in 2007.	
One share-one vote	1	**SUMMARY**	Generally, voting entitlements of the common shares of the company (both limited company and public limited company) are specified as one vote for one share. Certain variations to the entitlement are provided as follows: • In the limited company, the voting entitlement is one vote for one person unless a poll is called, forcing one vote for one share; • In the limited company, persons with special interests in the resolution cannot vote; • In the limited company with a regulation setting a minimum number of shares necessary to vote, minor shareholders may join together to appoint a proxy with voting entitlement; and in the public limited company, preferred shares may be less than that of ordinary shares (less than one vote in effect). Like the limited company, persons with special interests in the resolution cannot vote on such resolution.	
		Section 1182	On a show of hands every shareholder present in person or represented by proxy shall have one vote. On a poll every shareholder shall have one vote for each share of which he is the holder.	Civil and Commercial Code, Book III B.E. 2471 (1928)
		Section 1183	If the regulations of a company provide that no shareholder is entitled to vote unless he is in possession of a certain number of shares, the shareholders who do not possess such number of shares have the right to join in order to form the said number and appoint one of them as proxy to represent them and vote at any general meeting.	
		Section 1185	A shareholder who has in a resolution a special interest cannot vote on such resolution.	
		Section 1190	At any general meeting, a resolution put to the vote shall be decided on a show of hands, unless a poll is, before or on the declaration of the result of the show of hands, demanded by at least two shareholders.	

		Section 102	Shareholders who are entitled to attend and vote at the shareholder meeting may authorize other persons as proxies to attend and vote on their behalf. In this regard, the second, fourth and fifth paragraphs of Section 33 and Section 34 shall apply, *mutatis mutandis*.	Public Limited Company Act B.E. 2535 (1992)
		Section 33	(para. 2). Any share subscriber having a special interest in any matter shall not be entitled to vote on such matter, except for voting on the election of directors. (para 4). In voting, the share subscribers shall have votes according to the number of shares respectively subscribed by each of them. One share is entitled to one vote. (para. 5). Voting shall be made openly unless at least five subscribers request a poll and such request is resolved by the meeting.	
Proxy by mail allowed	0	**SUMMARY**	Proxy voting is allowed but a proxy has to be present in person to vote. No reference to proxy voting by mail is found in the law.	
		Section 1187	Any shareholder may vote by proxy, provided the power given to such proxy is in writing.	Civil and Commercial Code, Book III B.E. 2471 (1928)
		Section 1189	The proxy statement must be deposited with the chairman at or before the beginning of the meeting at which the proxy named in such proxy statement proposed to vote.	
		Section 34	In a meeting of share subscribers, the share subscribers may appoint any other person who is *sui juris* as proxy to attend the meeting and vote on his behalf. The appointment shall be made in writing and signed by the principal, and it shall be submitted to the person designated by the promoters at the place of the meeting before the proxy attends the meeting.	Public Limited Company Act B.E. 2535 (1992)
Shares not blocked before meeting	1	**SUMMARY**	There is no requirement for shareholders to deposit shares before a general meeting.	
Cumulative voting / proportional representation	1	**SUMMARY**	For the limited company with regulations specifying a minimum number of shares to entitle voting, the Civil and Commercial Code provides for minority shareholders to join together to form a block with the necessary number of shares. In all other situations, cumulative voting is not possible in the limited company because of the nature of voting, ie by show of hands or poll. For the public limited company, cumulative voting is statutorily provided for the election of the directors, where each shareholder's voting entitlement is equal to the number of shares held multiplied by the number of proposed directors and may be allotted to one or several directors. The articles of association of the public limited company may, however, specify otherwise.	
		Section 1183	If the regulations of a company provide that no shareholder is entitled to vote unless he is in possession of a certain number of shares, the shareholders who do not possess such number of shares have the right to join in order to form the said number and appoint one of them as proxy to represent them and vote at any general meeting.	Civil and Commercial Code, Book III B.E. 2471 (1928)

		Section 70	Unless otherwise prescribed by the company in the articles of association, the directors shall be elected at the meeting of shareholders in accordance with the following rules and methods: (1) each shareholder shall have votes equal to the number of shares held multiplied by the number of the directors to be elected; (2) each shareholder may exercise all the votes he has under (1) to elect one or several persons as directors. In the event of electing several persons as directors, he may allot his votes to any such person at any number; (3) [...] In case the articles of association of the company otherwise prescribe the procedures for election of directors, such articles of association shall not prejudice the shareholders' right in voting for election of directors.	Public Limited Company Act B.E. 2535 (1992)
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	For limited companies, Section 1169 of the Civil and Commercial Code provides claims for damages against directors to be entered in a judicial venue by the company or, if the company refuses to act, by shareholders. Section 85 of the Public Limited Companies Act provides judicial venue for minority shareholders to challenge the act of directors. With respect to a decision of an assembly of a public limited company, either at least five shareholders or any shareholder in aggregated amounts of not less than 20% of the total number of share sold is entitled to file a motion with the court for the revocation of the shareholder's resolution obtained in violation of or in contravention to the provisions of law, or the company's article of associations. In case of the limited company, any shareholder is entitled to the aforesaid undertaking.	
		Section 1169	Claims against the directors for compensation for injury caused by them to the company may be entered by the company or, in case the company refuses to act, by any of the shareholders. Such claims may also be enforced by the creditors of the company in so far as their claims against the company remain unsatisfied.	Civil and Commercial Code, Book III B.E. 2471 (1928)
		Section 1195	Any director or shareholder may file a motion with the court for revocation of the general meeting which was called or held or a resolution passed in violation of the provisions of laws or the articles of association of the company.	
		Section 85	In carrying on the business of the company, the directors shall do so according to laws, objectives and the articles of association of the company as well as the resolutions of the shareholders meeting and in good faith and with care to preserve the interest of the company.	Public Limited Company Act B.E. 2535 (1992)

			In the event a director performed any act or refrained from performing any act which is a failure to comply with the first paragraph, the company or the shareholders, whichever the case may be, may proceed as follows: (1) If such act or such refraining from performing any act has caused damages to the company, the company may claim compensation from such director. If the company fails to make such claim, any one or several shareholders who jointly hold shares at not less than 5% of the total number of shares sold may demand the company in writing to make such claim. If the company fails to take actions as demanded by the shareholders, such shareholders may request for court action to claim compensation on behalf of the company. (2) If such act or such refraining from performing any act is likely to cause damages to the company, any one or several shareholders who jointly hold shares at not less than 5% of the total number of shares sold may request the court to stop such act.	
		Section 108	If the a shareholder meeting was called or a resolution was passed with a failure to comply with or in contravention of the articles of association of the company or the provisions of this Act, not less than five shareholders or shareholders representing not less than one-fifth of the total number of shares sold may make a motion to the court for an order to cancel a resolution passed at such meeting, provided that the motion shall be made within one month of the date the resolution was passed.	
Preemptive right to new issues	1	**SUMMARY**	In the limited company, newly issued shares must be offered first to the existing shareholders, proportionally to their holdings. Shareholders may decline to accept the offer. For the public limited company, newly offered shares may be offered to the existing shareholders or any person depending upon shareholder resolution.	
		Section 1222	All new shares must be offered to the shareholders in proportion to the shares held by them. Such offer must be made by notice specifying the number of shares to which the shareholder is entitled, and fixing a date after which the offer, if not accepted, shall be deemed to be declined. After such date or on the receipt of an intimation from the shareholder that he declined to accept the shares offered, the director may offer such shares for subscription to other shareholders or may subscribe to the shares himself.	Civil and Commercial Code, Book III B.E. 2471 (1928)
		Summary of Section 136	The company may increase its capital from the amount registered by issuing new shares. This can only be done after the meeting of shareholders has passed a resolution by not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote; and registration with the Registrar within fourteen days from the date it passed by the meeting.	Public Limited Company Act B.E. 2535 (1992)

		Section 137	The additional shares under Section 136 may be offered for sales in whole or in part and may be offered for sales to the shareholders in proportion to the number of shares respectively held by them previously or may be offered for sale to the public or other persons either in whole or in part provided that it is made in accordance with the resolution of the meeting of shareholders. (Since it is the shareholders who determine whether new shares will be allocated with privilege subscription (rights offering), privately placed or publicly offered, it can be said that pre-emptive right is honoured in the PCA.)	
% of share capital to call an EGM	20% or 10% (with 25+ shareholders)	**SUMMARY**	In the limited company, members holding not less than one-fifth (twenty percent) of the shares can request an extraordinary general meeting (EGM). In the public limited company, the percentage share capital to call an EGM is either: (a) not less than twenty per cent of the total number of shares sold; or; (b) not less than twenty-five shareholders holding shares altogether not less than ten per cent of the total number of shares sold.	
		Section 1173	Extraordinary meetings must be summoned if a requisition to that effect is made in writing by shareholders holding not less than one-fifth of the shares of the company. The requisition must specify the object for which the meeting is required to be summoned.	Civil and Commercial Code, Book III B.E. 2471 (1928)
		Section 100	The shareholders holding shares altogether at not less than one-fifth of the total number of shares sold or the shareholders of a number of not less than twenty-five persons holding shares altogether at not less than one-tenth of the total number of shares sold may submit their names in a letter requesting the board of directors to summon an extraordinary meeting of shareholders at any time but they shall give reasons for such request in the said letter. In such case, the board of directors shall arrange for the meeting of shareholders to be held within one month from the date of receipt of such letter of request from the shareholders.	Public Limited Company Act B.E. 2535 (1992)
Mandatory dividend	0	SUMMARY	The statutes do not impose any obligation for the company to distribute the dividend, but the dividend payment has to comply with certain requirements (for instance, it has to be paid only from the company's profit). In addition, the dividend payment, if not the interim payment, has to be approved by shareholders.	
		Section 1201	No dividend may be declared except by a resolution passed in a general meeting. The directors may from time to time pay to the shareholders such interim dividends as appeared to the directors to be justified by the profits of the company. No dividend shall be paid otherwise than out of profits. If the company has incurred losses, no dividend may be paid unless such losses have been made good.	Civil and Commercial Code, Book III B.E. 2471 (1928)
		Section 115	(para. 1) Dividends shall not be paid other than out of profits. If the company still has an accumulated loss, no dividends shall be distributed. (para. 2) […] Payment of dividends shall be approved by the shareholder meeting. (para. 3) Where permitted by the articles of association, the board of directors may pay interim dividends to the shareholders from time to time if the board believe that the profits of the company justify such payment. After the dividends have been paid, such dividend payment shall be reported to the shareholders at the next shareholder meeting.	Public Limited Company Act B.E. 2535 (1992)

Thailand – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		After the Asian financial crisis, Thailand introduced a number of legislative reforms to its insolvency laws and practice, for example: (1) enacting a new corporate reorganisation procedure in April 1998; establishing a specialised Bankruptcy Court in June 1999; and, by amendments in 1999, enhancing the efficiency of the bankruptcy and reorganisation procedures; (2) implementing binding frameworks for out of court workouts, which were agreed between a number of financial institution creditors under the auspices of the Corporate Debt Restructuring Advisory Committee, a committee established by the Bank of Thailand and various associations; (3) establishing the Financial Sector Restructuring Authority (FRA) to take over the operations of 58 finance companies that were suspended, etc. Creditor rights during reorganisation and bankruptcy are provided in the Bankruptcy Act. It is noted that the Bankruptcy Act (No.5) B.E 2542 (1999) was further amended (No. 6) in 2003 - but this was of very limited effect. It removed the third paragraph of s.139 (the effect being that the official receiver is no longer deemed an official of the court).	
Restrictions on going into reorganisation	1	**SUMMARY**	There are restrictions on going into reorganisation. For example, there is a threshold of amount of indebtedness: if the insolvent debtor is indebted in an amount not less than 10 million baht (Section 90/3), the debtor can file; a creditor or creditors who have claims in the aggregate amount of not less than ten million baht can file; if the debtor is a commercial bank, a finance company or a credit foncier company, either the debtor or its creditors need to obtain the written approval of the Bank of Thailand before filing for reorganisation, etc. More importantly, the reorganisation plan submitted by the planner (defined in Section 90/1 as: a person who prepares a reorganisation plan) needs to be (1) approved by the creditors' meeting by a majority of creditors whose claims equal three-fourths of the total amount of claims of the creditors present at the meeting in person or by proxy, and voting on such resolution (special resolution) and (2) appointed by the court.	
		Section 90/3	When the debtor is insolvent and is indebted to one creditor or more altogether for an amount of not less than ten million baht, whether such debt is due promptly or thereafter, if there is a reasonable and prospect to reorganize the business of the debtor, the person under Section 90/4 may file for reorganization with the court.	The Bankruptcy Act B.E.2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)

		Section 90/4	Subject to Section 90/5, the person who is entitled to file for reorganisation with the court, shall be as follows: (1) a creditor who may be one person or more with amount of debt of not less than ten million baht; (2) a debtor pursuant to Section 90/3; (3) the Bank of Thailand, where the debtor pursuant to Section 90/3 is a commercial bank, a finance company, a finance and securities company or a credit foncier company; (4) the Office of the Securities and Exchange Commission, where the debtor pursuant to Section 90/3 is a securities company; (5) Department of Insurance, where the debtor pursuant to Section 90/3 is an insurance against loss company or a life insurance company; The creditor of the debtor pursuant to Subsection (3), (4), (5) or […] or the debtor itself may file a petition under Section 90/3 after having received a written approval from the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or […], as the case may be.	
		Section 90/46	The resolution accepting the plan shall be a special resolution of: (1) the meeting of each and every class of creditors; or (2) the meeting of, at least, a class of creditors that is not the class under Section 90/46 bis, and the aggregate amount of claims of creditors who cast vote for the plan in the meetings of every class, is not less than fifty per cent of the total amount of claims of the creditors who attend the meetings, either in person or by proxy, and also cast vote in the resolution. In calculating the amount of claims, the creditors under Section 90/46 bis (creditor who receives a proposal from the planner to be repaid in full amount, [...] shall be deemed to attend the meeting and cast their votes in the resolution for acceptance of the plan.	
No automatic stay on assets	0	**SUMMARY**	From the date on which the court accepts a petition (for reorganisation) for its consideration until the petition is dismissed or revokes or the reorganisation plan is lapsed or completed, debtors enjoy an automatic stay on the assets. Creditors may object to the restrictions, but it is the Court which has the final say.	
		Section 90/12	Subject to Sections 90/13 and 90/14, as from the date on which the court accepts a petition for its consideration until the date on which the period for carrying out a plan lapses, a plan is completed, or the court dismisses the petition, or discards the case, or revokes a reorganization order, or cancels a reorganization process or the order for absolute receivership of the debtor's assets, under the provision in this Chapter: [...] (4) A creditor may not file against the debtor a claim in respect of the debtor's assets […] (5) A judgement creditor may not carry out the execution of a judgement over the assets of the debtor […] (6) A secured creditor may not enforce his claim against the collateral, unless the court accepting the petition permits to do so; (7) A creditor whom the law allows to enforce a claim by himself may not seize or sell property of the debtor;	The Bankruptcy Act B.E.2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)

		Section 90/13	Creditors and persons who have been subject to the stay pursuant to Section 90/12 may file a motion with the court which accepted the petition (for reorganization), for an order revising, modifying or revoking such stay if: (1) the stay is not necessary for the reorganization; or (2) no adequate protection for the secured creditor is provided. Note: Section 90/14: "definition of adequate protection for secured creditors".	
Secured creditors first (paid)	1	**SUMMARY**	A secured creditor is entitled to enforce payment against the collateral without having to file an application for repayment of debts under the reorganization but is required to allow the receiver or planner to inspect the collateral. In the case that the debtor receives an order for receivership of asset under the bankruptcy procedure (Section 95), a secured creditor is entitled to retain his rights against the collateral and to enforce his rights, if the collateral is given by the debtor prior to the order for receivership of asset. However, a secured creditor may agree to surrender the collateral for the benefit of all creditors (Section 96), in which case he may claim for the full amount of the debt by filing a claim for payment of the debt. In this case, the order of payment is according to Section 130 where receiver's fees and expenses, court fees and government tax and duty which have become due for payment within the six month period prior to the order for control of the estate, wages of employees ranked higher than creditors in the distribution of bankrupt property.	
		Section 90/28	Subject to Section 90/12(6), Section 90/13 and Section 90/14, secured creditors may enforce payment of debt from assets used as collateral without having to file an application for payment of debts for reorganization. However, they shall allow the official receiver or planner to inspect such assets.	The Bankruptcy Act B.E.2483 (1940),
		Section 95	A secured creditor shall retain rights against the collateral given by the debtor prior to the order for receivership of assets, and need not file a claim for payment of the debt, but shall allow the official receiver to inspect such property.	amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)
		Section 96	A secured creditor may file a claim for payment of the debt on the following conditions: (1) If he agrees to surrender the collateral for the benefit of all creditors, he may claim for the full amount of the debt; (2) If he has already enforced his claim against the collateral, he may claim for the balance of the debt; (3 If he has asked the official receiver to auction the collateral, he may claim for the balance of the debt;	

		Section 130	In the course of distribution of property amongst creditors, the expenses and debts shall be paid in the following order and manner: (1) Expenses for administration of a debtor's inheritance; (2) Expenses of the official receiver in managing the debtor's estate; (3) Funeral expenses of a deceased debtor in an amount suitable to his stature; (4) Court fees in collecting property under Section 179(3); (5) Court fees of the petitioning creditor, and attorney fee as the court or the official receiver may prescribe; (6) Tax and duty which have become due for payment within the six month period prior to the order for control of the estate, and wages for which an employee is entitled to receive under Section 257 of the Civil and Commercial Code and under the law on worker protection, prior to the order for control of the estate, in exchange of the works that such employee did for the debtor who was his employer; (7) Other debts. If the proceeds are insufficient to pay in full the debt in any series, the proceeds shall be proportionately distributed to the creditors in such series.	
		Section 130 bis	In case of a debt under Section 130 (7) of which, by law or contract, the creditor is entitled to receive payment only when all other creditors have received payment in full, such creditor shall still be entitled to receive his share for the distributed property, according to his rights provided in the law or contract.	
Management replaced	1	**SUMMARY**	The incumbent management will not formally be replaced during the reorganisation, but is no longer entitled to manage the business and assets of the debtor upon the court's order of business reorganisation (approving the business reorganisation). If a planner is not selected, the management is replaced by an interim manager appointed by the court–(Section 90/20). The planner is appointed by the court. Upon the appointment, the planner takes over the power and duties in managing business operation and property of the debtor and the rights of shareholders of the debtor under the laws, except for the right to receive dividend (Section 90/25).	
		Section 90/20	In case the court has granted a reorganization order but has not appointed a planner, the authority of the debtor's manager to manage business operations and property of the debtor shall cease. The court shall appoint a person or persons or the debtor's manager to be the interim manager having the authority to manage business operations and property of the debtor under supervision of the official receiver until a planner is appointed. During the time when an interim manager has not been appointed, the official receiver shall have the authority to temporarily manage business operation and property of the debtor.	The Bankruptcy Act B.E. 2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)
		Section 90/25	Subject to Sections 90/42 and 90/64, when the court grants an order appointing the planner, the power and duties in managing business operation and property of the debtor and the rights of shareholders of the debtor under the laws, except for the right to receive dividend, shall be conveyed to the planner.	
Legal reserve	10%	**SUMMARY**	Legislation mandates that a reserve of not less than ten percent of the registered capital be established, accumulated from profits.	

		Section 1202	The company must appropriate to a reserve fund, at each distribution of dividend, at least one-twentieth of the profits arising from the business of the company, until the reserve fund reaches one-tenth part of the capital of the company or such higher proportion thereof as may be stipulated in the regulations of the company. If shares have been issued at a value higher than the face value, the excess must be added to the reserve fund until the latter has reached the amount mentioned in the foregoing paragraph.	Civil and Commercial Code, Book III B.E. 2471 (1928)
		Section 116	The company shall allocate to a reserve fund from the annual net profit, not less than five percent of the annual net profit deducted by the total accumulated losses brought forward (if any) until the reserve fund reaches an amount of not less than ten percent of the registered capital, unless where the company's articles of association or other law prescribes for a higher amount of such reserve.	Public Limited Company Act B.E. 2535 (1992)

Turkey – Shareholder Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		The relevant laws are the Turkish Commercial Code and the Capital Markets Law. Public joint stock companies are subject to the Capital Markets Law and to the Commercial Code in the case of absence of regulation, non-public companies are subject to the Turkish Commercial Code. A draft has been submitted for a new Turkish Commercial Code, although at this stage it is not known when it will go through parliament. The draft aims to update the old code, and run in alignment to the Capital Markets Law, also harmonising with EU directives. Some changes to the Capital Markets Law will also be made as a result of the new Commercial Code.	
One share -one vote	0	**SUMMARY**	It is possible to issue shares with more than one vote or no vote at all, provided this is stipulated in the articles of association.	
		Section 14/A	Restrictions may be placed by the Capital Markets Board. Presently, all companies can issue non-voting shares up to 75% of the paid up or issued capital stock.	Capital Markets Law
Proxy by mail allowed	0	**SUMMARY**	The laws do not allow for proxy by mail.	
		Section 360	[...] Every shareholder entitled to vote may exercise this right at the sessions of the general meeting either personally or though a third person who is also a shareholder or, in the absence of any clause to the contrary in the articles of association, is not a shareholder.	Turkish Commercial Code, Capital Markets Law
Shares not blocked before meeting	1	**SUMMARY**	No blocking rules are in place for registered shares.	
		Section 360	According to the art. 360 of Turkish Commercial Code, bearer shareholders must deposit their shares. Shareholders shall exercise their rights in connection with the company's business such as the appointment of officials, the approval of accounts and the distribution of profits, at the sessions of the general meeting.	Turkish Commercial Code
Cumulative voting / proportional representation	0	**SUMMARY**	Proportional representation through cumulative voting is allowed in public companies, not allowed in private companies. Cumulative voting is regulated by Serial: IV No: 29 communique. As regulated in article 5, an explicit provision must exist in the articles of association to apply cumulative voting. It's obligatory for associations to apply cumulative voting whose shares are not subject to transactions on ISE and who have more than constantly 500 shareholders. Applying cumulative voting is optional for other associations.	Turkish Commercial Code, Capital Markets Law

Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	Any shareholder is entitled to challenge managerial decisions if they violate the law or articles of association. In addition, individual managers can be held responsible for their actions. Under Turkish corporate law, shareholders are not granted appraisal rights, a remedy that provides shareholders who are dissatisfied with fundamental corporate changes, the right of having their shares repurchased by the corporation for cash. However, by the amendment made to Capital Markets Law in 1999, Capital Markets Board was authorised to determine the principles related to the obligation of purchasing other shares by those who acquire shares or collect proxies that would pave the way for a change in administrative control and the right of minority shareholders to be bought out by the controlling group. Even though the detailed regulations concerning the appraisal remedy is not codified yet, the controlling group in a company can make a voluntary tender offer and buy-out the minority shares at a fair price.	
		Article 381	The persons indicated below may apply to the court of the locality where the head office of the company is situated and open an action for the cancellation of the resolution of the general meeting which are contrary to the provisions of the law and of the articles of association and particularly to the rules of objective good faith, within three months after the date of the said resolutions: 1. Shareholders present at the meeting who, being opposed to the resolution, have caused the matter to be included in the minutes or who have been illicitly deprived from exercising their voting right or who claim that calls for the meeting have not been regularly made or that the agenda has not been regularly advertised or communicated or that persons not entitled to take part in the general meeting have taken part in the resolutions; 2. The board of directors; 3. Every director or auditor, if the execution of the resolution entails his personal responsibility; The board of directors shall duly advertise the opening on an action for cancellation and the date of the hearing. The action may not be heard before the expiration of the period of forfeit of three months mentioned in the first paragraph. If more than one case have been filed they will be united. The court may, on application by the company, require from the plaintiffs a guarantee for the eventual losses of the company. The court shall determine the kind and amount of this guarantee.	Turkish Commercial Code
		Section 12	The Board of Directors, auditors or shareholders whose rights are violated may file a case for cancellation against the resolution taken by the Board of Directors [...]. This regulation is only for the companies with registered capital	Capital Market Law
		Section 46	Following the supervision, examination and auditing made in accordance with this Law, the Board is authorized; b) To file a case for cancellation against the decisions taken in accordance with the principles of Article 12 by the Board of Directors within 30 days beginning from the announcement of these resolutions, at the trade court in the local area where the headquarter of corporation is located, and to demand to defer the execution of these resolutions [...]	

Preemptive right to new issues	1	**SUMMARY**	Each shareholder is entitled to purchase newly issued shares in proportion to their existing holding. The provisions of the Articles of Association set forth conditions for the use of pre-emption rights. The resolution of the General Meeting concerning the increase of the capital may suspend these rights, provided that the resolution does not infringe the principles of equal treatment of shareholders. In the registered capital system, the board of directors may restrict preemptive rights if it is set forth in the articles of the Association.	
		Section 394	In the absence of any clause to the contrary in the resolution of the general meeting concerning the increase of the basic capital, any shareholder is entitled to a number of new shares in proportion to his interest in the capital of the company. The board of directors shall advertise in the newspapers the price of issue of the shares to be attributed to shareholders. Publications made to this effect shall indicate the term, of not less than fifteen days, during which shareholders may exercise their right of subscribing for new shares.	Turkish Commercial Code
		Section 12	Capital Market Law, Section 12: The Board of Directors must be authorized by the Articles of Incorporation in order to pass a resolution to issue preferential shares or, shares with a premium over their nominal value, to limit the shareholders' rights for obtaining new shares and to restrict the rights of the holders of preferential shares.	Capital Market Law
% of share capital to call an ESM	10%	**SUMMARY**	Shareholders representing at least ten percent of the company's capital can call an ESM. For the publicly held companies, with the amendments to Capital Markets Law, minority rights are now granted to the shareholders who own the 5 percent of the paid in capital.	
		Section 366	On the written and justified requisition of shareholders representing at least one tenth of the company's capital, the board of directors shall convene the shareholders to an extraordinary general meeting or if the holding of a general meeting were already decided, shall include in the agenda the matters which they wish to discuss. The number of shares required for the exercise of this right may be reduced by the articles of association.	Turkish Commercial Code
Mandatory dividend	0	**SUMMARY**	Firms are not required to pay a mandatory dividend to their shareholders. Management can pay dividend if the minimum reserve requirements and articles of association are met. Publicly traded companies, however, must specify the first dividend payment in its statutes.	
		Section 469	No dividend shall be paid until the legal and facultative reserves and other sums which have to be set aside in accordance with the law and the articles of association have been set aside on the net profits. Should it be deemed convenient and useful from the point of view of the continuous development of the company or the distribution of dividends as stable as possible, the general meeting may, when fixing the dividend, decide to set aside reserves other than those provided by the law and the articles of association and to increase the rate of the services fixed by the law and the articles of association. Even if the articles of association contain no provision to this effect the general meeting may set aside on the net profits allocations for creating and maintaining assistance funds and other assistance organisations for the employees and workers of the company or for other assistance purposes. These allocations shall be ruled by the provisions regarding assistance funds determined by the articles of association.	Turkish Commercial Code

		Section 470	No interest may be paid on the basic capital. The dividend may be distributed only out of net profits and reserve funds set aside for this purpose.	
		Section 15	The rate of the first dividend shall be indicated in the Articles of Incorporation of the joint stock corporations whose shares are offered to the public. This rate may not be lower than the amount to be determined by the Board. The stock corporations with greater than 500 shareholders and whose shares are not subject to transactions on ISE and that are registered with CMB have to distribute mandatory dividend. The percentage of this dividend shall not be under the 30% of the net profit after the reserve funds, taxes, funds, fiscal payments and if exists the previous year loss required to be set aside by law, have been set aside from the accounting period profit.	Capital Market Law
		Section 427	If firms are subject to transactions on ISE then they must give a minimum of 30% dividend, although this does not have to be in cash; it can also be in stocks.	

Turkey – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Bankruptcy is governed by the Execution and Bankruptcy Act of 1929, as amended up to 2003 and further in 2004.	
Restrictions on going into reorganisation	1	**SUMMARY**	Reorganisation is possible upon application to the Bankruptcy Court, and requires the consent of half of the creditors representing at least two thirds of the total debt (Art. 285 and 297). Reorganization is regulated by the articles of Execution and Bankruptcy Act as amended by law No.5092 on 12.2.2004. For the capital companies and cooperatives whose assets are not sufficient to cover the debts of the creditors of the companies, instead of bankruptcy, an opportunity as reorganization regulated by the relevant articles (art 285-309). Reorganization is based on mutual agreement between debtor and the creditors. The agreement must be approved by the majority of creditors who have adequate credit required by law. The system processes under court supervision and for the validity of the agreement the court shall approve the agreement.	Execution and Bankruptcy Act of 1929, as amended
No automatic Stay on assets	0	**SUMMARY**	According to art. 285/3, if deemed necessary, supervising judge shall take the measures mentioned in 290/2, in order to protect the debtors assets. Due to 290/2, the debtor shall not institute pledge, act as guarantor, make gratuitous transactions, transfer and restrict the real property and permanent establishment of enterprise even in part.	Execution and Bankruptcy Act of 1929, as amended
Secured creditors first (paid)	0	**SUMMARY**	According to art. 206, in case of liquidation, customs and property taxes due on liquidated assets take priority over secured creditors who have a priority over all creditors.	Execution and Bankruptcy Act of 1929, as amended
Management replaced	0	**SUMMARY**	According to art 290/I, the debtor shall continue management under the control of reorganisation officer. But the supervising judge shall decide whether the reorganisation officer will undertake the management instead of the debtor or that some transactions will be valid only by the participation of reorganisation officer. The management stays during reorganisation, although many actions must be approved by a court-appointed reorganisation officer. The supervising judge is authorised to remove management in case of management actions in breach of good faith or the reorganisation plan (Art. 290).	Execution and Bankruptcy Act of 1929, as amended
Legal reserve	33%	**SUMMARY**	If two thirds of the basic capital is not covered by net assets any more and the required coverage cannot be attained, the company will be dissolved.	

		Section 324	If it is ascertained by the last balance sheet that one half of the basic capital has no counterpart, the board of directors shall meet immediately and inform the general meeting of the situation. If there exist signs leading to suspect the insolvency of the company, the board of directors shall draw up an interim balance sheet by taking as a basis the selling prices of the assets. If two thirds of the basic capital remain without a counterpart and the general meeting does not decide to complete the capital or to be satisfied with the remaining one third of the capital, the company shall be considered as dissolved. If the assets of the company are not sufficient to cover the debts of the creditors of the company, the board of directors shall immediately inform the court. The court will adjudicate the company bankrupt. If it is ascertained, however, that the situation of the company could be improved, the court may stay the adjudication of bankruptcy on application by the board of directors or by a creditor. In this case the court shall take the necessary measures for the conservation of the estate of the company such as the drawing up of an inventory or the appointment of a trustee.	Turkish Commercial Code

Venezuela – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The main laws governing the securities market in Venezuela are the capital markets law of 1998 (Ley de Mercado de Capitales de 1998) and the Commercial Code of 1955 (Código de Comercio de 1955). There is no specific company law.	
One share -one vote	0	**SUMMARY**	There is no reference to the 'one vote per share' principle in the law. Article 292 makes reference to only two classes of shares: nominative or bearer. Both have the same rights.	
		Article 292	Las acciones deben ser de igual valor y dan a sus tenedores iguales derechos, si los estatutos no disponen otra cosa. Las acciones pueden ser nominativas o al portador.	Código de Comercio / 1955
Proxy by mail allowed	0	**SUMMARY**	There is no reference in the law allowing proxy by mail.	
Shares not blocked before meeting	0	**SUMMARY**	In order to have the right to cast a vote on the Assembly, Article 279 requires shareholders to deposit their shares prior to the date scheduled for such meeting.	
		Article 279	Todo accionista tiene el derecho de ser convocado a su costa por carta certificada, haciendo elección de domicilio y depositando en la caja de la compañía el número de acciones necesarias para tener un voto en la asamblea.	Código de Comercio / 1955
Cumulative voting / proportional representation	0	**SUMMARY**	Minority shareholders hold the right to elect a director to the board of directors, but the minimum minority allowed is twenty percent.	
		Article 125	En la junta administradora de las sociedades anónimas cuyas acciones fuesen objeto de oferta pública, deberán estar representados los accionistas minoritarios. A tal efecto, cualquier grupo que represente por lo menos un veinte por ciento (20%) del capital suscrito, tendrá derecho a elegir un número proporcional de miembros a la Junta Directiva.	Ley de Mercado de Capitales
Oppressed minorities (judicial venue / obligatory share repurchase)	1	**SUMMARY**	According to Article 282, shareholders who do not agree with fundamental changes to the company have the right to withdraw from it and to claim the reimbursement of their shares.	

		Article 282	Los socios que no convengan en el reintegro o en el aumento del capital, o en el cambio del objeto de la compañía, tienen derecho a separarse de ella, obteniendo el reembolso de sus acciones, en proporción del activo social, según el último balance aprobado. La sociedad puede exigir un plazo hasta de tres meses para el reintegro, dando garantía suficiente. Si el aumento de capital se hiciere por la emisión de nuevas acciones, no hay derecho a la separación de que habla este artículo. Los que hayan concurrido a algunas de las asambleas en que se ha tomado la decisión, deben manifestar, dentro de las veinticuatro horas de la resolución definitiva, que desean el reembolso. Los que no hayan concurrido a la asamblea, deben manifestarlo dentro de quince días de la publicación de lo resuelto.	Código de Comercio / 1955
Preemptive right to new issues	0	**SUMMARY**	The law does not contain any provision that gives preemptive rights to existing shareholders. Articles 33 through 36 refer to the issuance of new shares by the company and to the rights of the shareholders assembly. Neither of these articles mentions the preemptive right of shareholders to purchase new shares.	
		Article 33	La asamblea de accionistas podrá delegar a los administradores la facultad de emitir una o más veces obligaciones, debiéndose establecer expresamente en la resolución de asamblea, el monto máximo de obligaciones que podrán emitir los administradores, dentro de los límites que fije al respecto la Comisión Nacional de Valores, así como las modalidades de las mismas. La delegación otorgada por la asamblea a los administradores no podrá tener una duración mayor de dos (2) años.	Ley de Mercado de Capitales
		Article 34	La emisión de obligaciones solamente podrá ser aprobada por una asamblea de accionistas donde esté representado, por lo menos, las tres cuartas partes del capital social. La decisión se tomará con el voto favorable de la mayoría simple de las acciones presentes, salvo que los estatutos exijan un quórum o mayoría superiores.	
		Article 35	La sociedad que haya emitido obligaciones, sólo podrá reducir el capital social en proporción a las obligaciones que hubiere reembolsado. Si la reducción es en razón de pérdidas, la sociedad no podrá decretar dividendos hasta tanto las utilidades obtenidas en los ejercicios siguientes sumadas al capital pagado, sean iguales al monto pagado de las obligaciones en circulación, salvo que se trate de una capitalización de las mismas. Alcanzado el monto señalado, podrá decretar dividendos por el excedente. Cualquier otro caso de reducción de capital, de disposición de utilidades no distribuidas o de apartados de utilidades que respalden la emisión, requerirá la previa autorización de la Comisión Nacional de Valores.	
			Las obligaciones podrán ser redimidas por el sistema de sorteos bajo la supervisión de la Comisión Nacional de Valores o por cualquier otro mecanismo previsto en las condiciones de la emisión y en el correspondiente prospecto.	

		Article 36	Las obligaciones contendrán un resumen de las características, modalidades y condiciones de emisión establecidas en las normas pertinentes, así como cualquier otra información que la Comisión Nacional de Valores considere necesario incluir. Los títulos representativos de las obligaciones podrán ser emitidos conforme a las modalidades previstas en el artículo 23 de esta Ley.	
% of share capital to call an ESM	20%	**SUMMARY**	Shareholders who represent at least twenty percent of shareholder capital can call an "Extraordinary General Meeting".	
		Article 278	Los administradores deben convocar extraordinariamente a la asamblea dentro del término de un mes, si lo exige un número de socios que represente un quinto del capital social, con expresión del objeto de la convocatoria.	Código de Comercio / 1955
Mandatory dividend	50%	**SUMMARY**	According to article 115, a company has the obligation to distribute dividends of at least fifty percent of net proceeds. Article 116 makes an exception to this rule in cases where the amount of net income proves to be under a certain percentage of share capital (to be determined by the Comisión Nacional de Valores -- equivalent to the SEC). In this case, incrementing shareholders capital by means of issuing new shares (until reaching the pre-specified percentage) will have priority over the distribution of dividends.	
		Article 115	Las sociedades que hagan oferta pública de sus acciones deberán repartir entre sus accionistas no menos del cincuenta por ciento (50%) de las utilidades netas obtenidas en cada ejercicio económico después de apartado el impuesto sobre la renta y deducidas las reservas legales. De este porcentaje, no menos del veinticinco por ciento (25%) deberá ser repartido en efectivo. En caso de que las sociedades tengan déficit acumulado, las utilidades deberán ser destinadas a la compensación de dicho déficit y el excedente de utilidades será repartido de acuerdo a la forma antes establecida. Parágrafo Único Los bancos y otras instituciones financieras y las empresas de seguros y reaseguros están obligadas a cumplir con lo establecido en esta norma, salvo en aquellos casos en que la Superintendencia de Bancos o la Superintendencia de Seguros, según corresponda, determine otra cosa.	Ley de Mercado de Capitales
		Article 116	Las sociedades que hagan oferta pública de acciones podrán ser eximidas por la Comisión Nacional de Valores de cumplir con lo dispuesto en el artículo anterior, cuando las utilidades obtenidas en el correspondiente ejercicio económico, sean inferiores al porcentaje del capital pagado que determine la Comisión Nacional de Valores; en cuyo caso dichas utilidades deberán ser destinadas a un aumento de capital mediante la emisión de las correspondientes nuevas acciones, hasta satisfacer el porcentaje referido.	

Venezuela – Creditor Rights

Right		Relevant Article	Detail	Law
	GENERAL SUMMARY		Winding up or liquidation law applies to companies and is contained under the Commercial Code of 1955 (Código de Comercio de 1955) and the Civil Proceedings code dated 1990 (Código de Procedimiento Civil de 1990). Corporate rescue, i.e. restructuring is contemplated under the commercial code. In Venezuela there is no law exclusively for bankruptcy, corporate restructuring or reorganisation processes. Special laws regulate some institutions and their bankruptcy/reorganisation procedures are contemplated in these (i.e. banks, financial institutions and insurance firms). The Capital Markets law includes Article 10, which specifies that the Comisión Nacional de Valores (the stock market regulator) has the power to regulate bankruptcy/reorganisation for companies under its jurisdiction. Articles 82 and 83 relate to these issues in the case of brokerage companies. Sources: (from Dr Luis Ernesto Andueza G., Despacho de Abogados miembros de Macleod Dixon, S.C.), Venezuelan Government (www.gobiernoenlinea.ve)	
Restrictions on going into reorganisation	0	**SUMMARY**	There is no reference in the Commercial Code to a reorganisation procedure.	
No automatic stay on assets	0	**SUMMARY**	There is no reference in the Commercial Code to a reorganisation procedure.	
Secured creditors first (paid)	0	**SUMMARY**	There is no evidence in the law (either in the Commercial Code - Article 995 or in the Civil Code - Articles 798 and 803) giving secured creditors priority in the event of a liquidation of the company.	
		Article 995	Todos los créditos contra el fallido, cualquiera que sea su carácter, están sujetos a calificación en el juicio de quiebra.	Código de Comercio
		Article 798	Reunidos los acreedores, el Secretario dará lectura a la solicitud y a las listas de bienes y deudas. Luego informará sobre las disposiciones acordadas por el Tribunal y del resultado de ellas. Los acreedores, por el orden de la lista respectiva, producirán los instrumentos que legitimen sus créditos, y por el mismo orden se les dará lectura por el Secretario. Inmediatamente los interesados podrán revisar dichos instrumentos y, luego, el Juez incitará al deudor, si estuviere presente, y a los acreedores, a que expongan cuanto crean conducente al objeto de la solicitud del primero, y a las tachas y observaciones que tengan que hacer sobre la legitimidad o carácter y graduación de los créditos de los demás acreedores. El Secretario anotará las opiniones del deudor y los acreedores sobre ambos puntos, a medida que se fueren emitiendo. Al fin este mismo funcionario publicará el resultado de la votación, cuáles son los créditos tachados y cuántos votos se han reunido contra cada uno de éstos.	Código de Procedimiento Civil

		Article 803	Concluida la controversia sobre calificación, los acreedores [...] establecerán el orden de los pagos, según la preferencia de cada crédito. Si no estuvieren todos de acuerdo sobre la graduación de dichos créditos, el Juez la hará dentro de tres días.	
Management replaced	0	**SUMMARY**	There is no reference in the Commercial Code to a reorganisation procedure.	
Legal reserve	10%	**SUMMARY**	Legal reserve amounts to a minimum of ten percent of shareholders capital. In case the shareholders capital diminishes by one third in value, the society will be liquidated, unless shareholders can agree either to increase the share capital or to limit the share funds of the existing capital (Article 264).	
		Article 262	Anualmente se separará de los beneficios líquidos una cuota de 5 por 100, por lo menos, para formar un fondo de reserva, hasta que este fondo alcance a lo prescrito en los estatutos, y no podrá ser menos del diez por ciento del capital social. Este fondo de reserva, mientras no ocurra la necesidad de utilizarlo, podrá ser colocado en valores de cómoda realización; pero nunca en acciones u obligaciones de la compañía, ni en propiedades para el uso de ella.	Código de Comercio
		Article 264	Cuando los administradores reconozcan que el capital social, según el inventario y balance ha disminuido un tercio, deben convocar a los socios para interrogarlos si optan por reintegrar el capital, o limitarlo a la suma que queda, o poner la sociedad en liquidación. Cuando la disminución alcance a los dos tercios del capital, la sociedad se pondrá necesariamente en liquidación, si los accionistas no prefieren reintegrarlo o limitar el fondo social al capital existente.	